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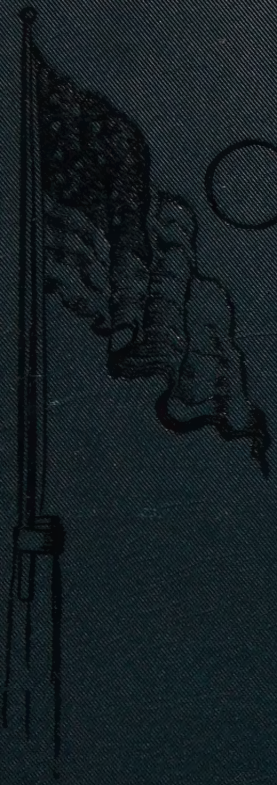

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OUR REPUBLIC:

A TEXT-BOOK UPON THE

CIVIL GOVERNMENT OF THE UNITED STATES,

WITH A

HISTORIC INTRODUCTION,

BY

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PREFACE.

THE written constitution of the United States, like the constitutions of the individual states of the Union, is simply the framework of the government. Many of its provisions are so general as to be adapted to a very wide application. On this account the study of the constitution gives an indefinite and sometimes an incorrect idea of the machinery actually employed to apply and enforce its mandates.

A commentary upon the constitution of the United States gives a faint idea only of the government as it has developed under the hand of the statesman. The details of a government are always more important to the average citizen and average student than are the theories of government that may be deduced from its written constitution. It is therefore the object of this treatise to place before the student such a statement of the actual agencies of the government of the nation as shall enable him the better to understand the silken bonds of authority which restrain, though unseen.

The plan of the work does not contemplate a reference to all minor details, though nothing deemed important has been omitted.

In the preparation of the volume we have endeavored to respond to the growing and strengthening sentiment of American educators, favoring a more general and systematic study

of civil government, in a way adapted to the common schools, and to anticipate the day when the government of the state shall be studied before that of the nation shall be taken up. The details of all the governing agencies and functions of the state may safely and properly be taught in the last years of the grammar school course. The study of the national government may be reserved for the high schools and academies. We have no doubt that such an order of study of this branch of human knowledge will be generally adopted at no distant day.

In addition to the details of the government, enough comment has been supplied to make the theory of government, as generally accepted, clear and complete.

The scattered provisions of the national constitution, bearing likeness to the Bill of Rights of the state constitutions, are collected and arranged connectedly. They are mostly written in the technical language of the law-books, but we have tried to make them clear to the student by explanatory notes.

It is expected that the Historic Introduction will be read by all students. It is new to a text-book in civil government. How much time shall be given to it as a *study* must depend upon the age and requirements of the class and the time at the disposal of the teacher.

In the treatment of the states, let it be remembered that the laws, usages, and customs are somewhat diverse, the officials sometimes differing in name, and having different functions. Hence the authors are not often able to go very much into details, and many of the statements should be supplemented by the teacher so as to adapt such a book to the different parts of our great Union of States.

THE AUTHORS.

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HISTORIC INTRODUCTION.

We are now near the four-hundredth year-stone in the history of the United States. Columbus discovered America, October 12, 1492. The great discoverer did not visit the mainland of North America, but his discovery was the initial act that produced the present nation. Before him, other Europeans had visited the present boundaries of the original thirteen colonies, but their visitations were not related in any way to the present condition of affairs. The Northmen came and went, but they left little trace of their coming. After Columbus, there was an era of explorations extending over a period of more than one hundred years. Sebastian Cabot examined the eastern shores of North America, from the mouth of the St. Lawrence river to Albemarle sound, in 1498. Thirteen years afterwards, on Easter Sunday, Ponce de Leon stepped upon the fertile soil of the peninsula which he fitly named Florida. In 1520, Vasquez de Ayllon, a Spanish adventurer and pirate, visited South Carolina in search of slaves. He enticed a large number of Indians on board his vessel and took them to Hayti. This was the beginning of the slave-trade in the United States. John Verrazzano, in 1524, landed near Wilmington, in North Carolina, on a tour of explorations. He examined the coast some distance to the south, and northward to Nova Scotia. New York bay and Narragansett bay are two inlets of the ocean which he explored. Stephen Gomez, a former companion of Magellan, a few years later sailed along the coast of the middle and northern states in search of a north-western passage

to the Pacific ocean. Failing in his search, he imitated the southern pirate, Ayllon, and captured a ship-load of Indians to be sold as slaves. The slave-trade, as we see, was not confined to the southern states.

In 1541, Alarçon sailed along the Californian coast nearly as far north as San Francisco. In the same year, Coronado passed up the gulf of California and discovered Gila river. This he followed eastward, in search of the renowned seven cities of Cibola. He is said to have traversed the eastern foot of the Rocky Mountains, and to have wandered north-easterly over the great plains to the fortieth parallel of latitude and to a great river beyond. This would take him through Kansas and into the borders of Nebraska. Another noted exploration was begun in 1539. In that year Fernando de Soto landed in Florida and searched two years for rich cities and for mines of the precious metals. He traversed Alabama and Mississippi, and possibly Georgia and Tennessee. He died near the Mississippi river, below Memphis, and was buried in its waters. In 1562, a party of Huguenots, under John Ribault, attempted a settlement in South Carolina. The colony was soon after abandoned, as the civil wars, then raging in France, prevented the sending over aid and reinforcements. Three years afterwards, in 1565, the Spaniards founded St. Augustine. This was the first permanent settlement within the boundaries of the United States.

In 1577, Sir Francis Drake carried the English flag northward along the western coast of North America to the present state of Oregon. The second permanent settlement was made by the Spanish, at Sante Fe, New Mexico, in 1582. In 1584, Sir Walter Raleigh sent two vessels with emigrants, under Philip Amidas and Arthur Barlow, to make a settlement near the mouth of the Potomac river. The colonists were driven southward to the coast of North Carolina, where they traded with the Indians; but they returned to England without mak-

ing a settlement. They gave such a glowing description of the country that it captivated Queen Elizabeth, who named the country Virginia. The next year, another colony was sent over under Sir Richard Grenville. The party barely escaped shipwreck at the mouth of Cape Fear river, whence they gave it its name. The colonists debarked on Roanoke island, in Albemarle sound. They remained there only a year, when they returned to England. Two years afterwards, John White led a colony of settlers to the same place and founded a city to which was given the name Raleigh. White left the colony and returned to England for supplies and additional colonists. He did not return for three years; he then found the place deserted and no trace of the colonists left. Their fate has never been learned. Among them was a grand-daughter of White, named Virginia Dare, said to be the first child of English parents born within the present boundaries of the thirteen original colonies.

In 1602, Bartholomew Gosnold visited the coast of New England. He gave the name to Cape Cod after the name of the fish which he caught near its shore. The next year, Martin Pring explored the coast from Maine to Martha's Vineyard, and was followed, two years later, by George Weymouth, in nearly the same course. In 1607, George Popham came over with a colony for settlement in "North Virginia." They erected a fort at the mouth of the Kennebec river, and named it Fort St. George. The death of their leader and the extreme severity of the following winter so discouraged them that they returned to England the next spring. In 1614, John Smith, having already had an eventful career with the Virginian colony, sailed from England with two ships. He made a temporary settlement on the island of Monhegan, off the coast of Maine. Leaving a portion of his men here, he made an exploration of the coast as far south as Cape Cod. He gave the name New England to the country; a name which the king confirmed.

EARLY SETTLEMENTS.

Virginia. — In 1606, King James granted charters to two companies. To the London Company, composed of "noblemen, gentlemen, and merchants," he granted territory extending north and south between the thirty-fourth and thirty-eighth parallels of latitude — about from the mouth of Cape Fear river to the mouth of the Potomac river, — to be called South Virginia. To the Plymouth Company, composed of "knights, gentlemen, and merchants," was granted territory between the forty-first and forty-fifth parallels of latitude — about from the latitude of New York city to the mouth of St. Croix river, — to be called North Virginia. The three degrees between the two grants was reserved as neutral ground, but was open to settlement by both companies, with the condition that neither company should settle within one hundred miles of any settlement previously made by the other company. Under the charters, each Virginia was to be governed by a council, appointed by the king, composed of residents of England. The local affairs of the colony were to be managed by a council, residents of the colony, and also appointed by the king. Each local council was to choose a presiding officer, or head, who should be governor of the colony. No civil or political rights were given to the colonists, and the products of their labor were to be shared in common. A settlement was made at Jamestown, Virginia, under the charter, in 1607. Two years afterwards, an amendment was made to the charter, by which the territory was extended so as to include North Carolina and Maryland, and to extend westward without limit. The amendment also changed the character of the government somewhat. The council was to be chosen by the company, with power to make laws and to appoint a governor who should supersede the local council. In 1611, the governor, Sir Thomas Dale, assigned to each settler a definite tract of land, and the commu-

nity of goods was abandoned. A third charter, granted in 1612, abolished the council resident in England, and the company governed the colony more directly through a governor of its own appointment. In 1619, Governor Yeardley introduced a representative feature into the government, and in that year, the first American legislative body representing the people assembled at Jamestown. This act of Governor Yeardley was confirmed two years later, when a written constitution was granted, vesting the government of the colony in a governor and council appointed by the company, and a general assembly elected by the people. This assembly was to consist of two members from each borough, and to meet annually. In 1624, the king took away the charter of the company and governed the colony as a royal province. The governing agency consisted of a governor, twelve councilors appointed by the king, and the legislative assembly which was retained.

Massachusetts. — The attempt of George Popham and his associates to found a colony at the mouth of the Kennebec river was the only attempt of the kind made by the Plymouth Company under its charter of 1606. In 1620, the company was dissolved, and a new company formed as the Council of Plymouth, under a new charter, that granted territory from the fortieth to the forty-eighth parallel of latitude, extending from near Philadelphia to the bay of Chaleurs, and from the Atlantic to the Pacific oceans. In the same year that this new charter was given, a settlement was made within its territory and without its knowledge. The Pilgrims landed at Plymouth, December 21, 1620. Before leaving the *Mayflower*, its forty-one male immigrants signed a written agreement to obey such laws as might be enacted for the common good. The form of government was very simple. The governor was chosen by the people, and he had one assistant. The number of assistants was afterwards increased to five, and then to seven. The legislature was the whole body of the male inhabitants. This was

a very near approach to a pure democracy. In 1639, the increase in the number of the inhabitants compelled a resort to a representative legislature, each town sending one deputy. For two years after the settlement at Plymouth, the settlers shared their goods and the products of their industry in common. In the third season, land was assigned to each settler, resulting in greater industry and thrift.

As early as 1613, a French colony was found at Mt. Desert island, off the coast of Maine, by Captain Argol, of Virginia, and broken up. About the time that the landing was effected on Plymouth Rock, a few weak settlements were made along the coast of Maine, and they gained strength slowly. In the meantime, the Council of Plymouth granted portions of this territory, from the Piscataqua river to the Penobscot river, to several companies. As this territory, in the boundaries named, had already been granted to Gorges, serious controversies arose over them. In 1639, Saco was a thriving village. In 1626, a small colony located at Naumkeag, the Indian name for the present city of Salem, in Massachusetts. A portion of this colony removed to Charlestown the following year. In 1628, a hundred Puritans under John Endicott were added to the colony at Salem, sent out by a company that obtained privileges from the Council of Plymouth. In 1629, this company reorganized under the name "The Governor and Company of Massachusetts Bay, in New England," and obtained a charter directly from the king. This charter vested the executive government in a governor, a deputy-governor, and a council of eighteen, with the legislative power reserved to the proprietors. The same year, the company sent additional colonists to Charlestown, and, in 1630, appointed John Winthrop governor and sent eight hundred colonists with him. These, with the several hundreds that soon followed, settled Dorchester, Roxbury, Watertown, Lynn, Boston: the last-named became the capital of the colony. The following year, two important rules

were adopted by the proprietors: (1) only freemen could vote for officers, and (2) those only could be made freemen who should belong to some church within the colony. The charter-boundaries of the colony of Massachusetts bay were to extend from a point three miles south of any part of the Charles river to a point three miles north of any part of the Merrimac river. As this grant covered much of the territory already given to Gorges and Mason, it would seem that the source of the Merrimac river was not then known. In 1634, the towns were allowed to send deputies to help make laws. The charter of this colony was recalled in 1684, and the notorious Andros appointed colonial governor, by James II. Upon the accession of William and Mary, consequent upon the revolution of 1688, Andros was sent out of the province, and the colony resumed its old form of government, under its old charter. Upon the union of the colonies of Plymouth and Massachusetts bay, in 1691, a new charter was secured from the crown, extending the boundaries so as to include a large portion of Maine, over which Massachusetts had asserted jurisdiction very early, and had purchased, in 1677, the contested claims of the heirs of Gorges, so as to make the title complete. By this new charter, the governor and other high officers were appointed by the king.

New Hampshire. — A settlement was begun at Portsmouth, in 1623, by Gorges and Mason, under a grant from the Plymouth Company. About the same time another was made at Dover, under the same authority. In 1641, the scattered settlements were united to Massachusetts, and so remained until 1679, when the colony was made a royal province, governed by a president and council appointed by the king, and a house of representatives elected by the people. This colony shared with the others in the oppressions and exactions of the Andros government. After the colonies were freed from Andros, the colony was replaced under the jurisdiction of Massachusetts.

A separation took place in 1692, followed by a reunion, in 1699, which continued until a final separation, in 1741. Thenceforward, until 1776, the colony was a royal province.

New York. — Henry Hudson discovered, in 1609, the river that bears his name. The first settlement was made by some Dutch colonists, on Manhattan island, in 1623, under the patronage of the Dutch West India Company. In 1664, the king of England granted this district of country, including a portion of Connecticut and New Jersey, to his brother, Duke of York and Albany. Possession by force was taken at once. The colony was ruled by a governor appointed by the duke. In 1683, an assembly of representatives was granted to the people. This assembly established a charter of liberties which became the basis of a representative government for the colony. In 1685, the duke became king of England, and he withdrew the privileges which he had granted as duke. He forbade the legislative assembly and prohibited printing-presses in the colony. The notorious Andros became its governor at the same time that he was sent to oppress the other colonies. In 1691, a successor to Andros arrived, and affairs resumed their former methods, the colony being ruled as a royal province.

Connecticut. — The Dutch claimed the Connecticut river as the boundary of their colony, and built forts upon the river. There were also Dutch settlers within the limits of the state at a very early date and before English colonists found it. The first proprietor of Connecticut, under grant from the Council of Plymouth, was the Earl of Warwick. He transferred his interests to Lord Say and Seal and Lord Brooke, in 1631. The grant extended from the Narragansett bay to the Pacific ocean. In 1633, without any authority from the proprietors, and without their knowledge, a small company of emigrants from the colony of Plymouth established the beginning of a colony at Windsor. The following year, people flocked into the valley of the Connecticut from many towns of the Massachusetts and

Plymouth colonies, and in 1635 settlements were made at Wethersfield, Hartford, and other points. In 1639, the colonies of Windsor, Hartford, and Wethersfield, finding themselves outside the limits of any colonial government, organized one government for those colonies, now the Connecticut colony. A constitution was adopted, providing for a governor, a deputy-governor, and other magistrates, and for a legislative assembly, all to be chosen by the freemen of the towns forming the colony. In 1638, New Haven was founded by a company of settlers from London. The next year, they organized a government, with the Jewish Scriptures as their code of laws. The right to vote and to hold office was restricted to church members. In 1665, under a charter granted three years previously, the colonies of Connecticut and New Haven were united, and became the colony of Connecticut. The charter confirmed the privileges of the constitution of the Connecticut colony of 1639. In 1687, upon his arrival in the colony, Sir Edmund Andros made a demand upon the legislature for its charter. The demand was evaded, and the debate was prolonged until the evening. At a signal, the lights were extinguished, and Captain Wadsworth seized the charter from the table and concealed it in a hollow oak-tree near by. This tree became famous as the Charter Oak. Andros ruled the colony until his expulsion, when the charter was recovered and the old order of affairs was resumed.

Maryland. — Lord Baltimore received from the king a grant of land upon the Chesapeake bay. He was a Roman Catholic, and desired to secure a refuge for his co-religionists. Under his auspices, a colony settled near the present city of Baltimore, in 1634. The charter secured to the colonists a share in the legislation of the province, and exempted their property from taxation by the home government. The first session of the legislature was an assemblage of the freemen of the province. A representative legislature was established in 1639. This legislature

was afterwards divided into two bodies; the members of the one (higher) branch were appointed by the proprietor, and the members of the other (lower) branch were elected by the people. Religious toleration was established by law, in 1649; it had already existed as a fact from the foundation of the colony. Upon the accession of William and Mary to the throne of England, there were doubts concerning the loyalty of the proprietor and people of the province to the new sovereigns. The rights of Lord Baltimore were thereupon revoked, and the colony became a royal province. In 1715, the colony was restored to the heirs of Lord Baltimore, and it remained a proprietary province until the Revolution.

Rhode Island. — Roger Williams was banished from the Massachusetts colony, in 1636. He and his associates betook themselves to the head of Narragansett bay, where they obtained from Canonicus and Miantonomoh, the chief sachems of the tribe of Narragansett Indians, a tract of land on which Providence was founded. A short time previous to the arrival of Williams, a settlement had been made by William Blackstine (or Blackstone), a few miles north, and on the river that bears his name. The government established by Williams was a pure democracy. All its functions, executive, legislative, and judicial, were exercised by the citizens assembled in a mass meeting. The majority ruled in all civil matters. It was ordered in the beginning that the civil power had no control over the religious opinions of men. In 1638, William Coddington and a small party, who had been persecuted in Massachusetts, followed Williams to Providence, and thence removed to the island afterwards called Rhode Island, which they purchased of the Indians. Both settlements increased by the influx of the persecuted from other colonies. The colony of Rhode Island adopted a government nearly identical with that which had been established at Providence, but the chief magistrate was called "judge," in imitation of the Jewish government. The two colonies remained distinct until

1644, when a charter was obtained which united them into one province. The charter continued the control of civil and religious affairs in the hands of the people. In 1647, some changes were made in the form of the government, by reason of the increase in the number of its inhabitants. "Freedom of faith and worship was assured to all — the first formal and legal establishment of religious liberty ever promulgated, whether in Europe or in America." In 1663, another charter was obtained, which was similar to the one granted to the Connecticut colony, and named the colony "Rhode Island and Providence Plantations." One of the earliest laws passed by the legislature of the new colony restricted the suffrage to the holders of real estate of a certain amount and to their oldest sons. Andros treated this colony as he had treated the other northern colonies, and he took away its charter and ruled it through a council appointed by himself. Upon the dethronement of King James and the expulsion of Andros, the charter was resumed and the former government was re-instated.

Delaware. — This state received its first settlers near the present city of Wilmington, in 1638. Though not included in the grant to the Duke of York and Albany, it was included by him in his government, and was transferred by him to William Penn, in 1682. Thereafter, until 1702, it received the same treatment which Penn gave to his other province. At that date, 1702, it was allowed to secede to the extent that it had a separate legislative assembly, though it was still within the jurisdiction of the governor of Pennsylvania.

The Carolinas. — In 1660, a settlement was made by a party from some of the New England colonies, at the mouth of Cape Fear river. The colony did not prosper, and many of its settlers deserted it. Five years later, a party from the Barbadoes re-inforced the colony, and it was thereafter called the Clarendon colony. In 1663, Lord Clarendon and seven associates received from the king a patent for a large territory south of

Virginia. Two years afterwards, the patent was amended so as to extend the boundaries of the grant from the northern limit of North Carolina to St. Augustine. When the proprietors took possession, they found the settlement already made by the New Englanders, and also a colony of planters from Virginia, on Albemarle sound, called the Albemarle colony. This latter colony had a government giving to the people liberty of conscience and a voice in legislation. In 1670, the Carteret colony was founded at old Charleston, and a representative government organized. John Locke drew up a grand model of a government for this colony. The scheme was nominally in force for twenty-five years, but it was never carried out, as it was not adapted to the people in their condition. The three colonies were but one province, though they were so distant from one another that they had two governors. In 1677, upon an attempt to enforce the Navigation Act against a vessel from New England, the people of the northern colony rebelled, imprisoned the governor and some of the council, and organized a temporary popular government. They remained, in the meantime, under the dominion of the proprietors, and loyal to them. In 1729, the colony was divided into North Carolina and South Carolina, and each became a royal province, with all colonial officers appointed by the king.

New Jersey. — This was a part of the territory granted to the Duke of York and Albany. The first settlement is usually dated 1664, at Elizabethtown, by Puritans. But, before it was granted to the duke, it had been coveted by the Dutch, and parties had settled upon its edge not a very long time after their countrymen had colonized Manhattan island. The duke transferred his claim to Lord Berkeley and George Carteret. The proprietors gave to the colonists a liberal constitution, in order to encourage settlers. This provided for a legislature elected by the people, and a governor and council appointed by the proprietors. In 1676, the colony was divided, each proprietor

taking one-half, and each half having a separate government. Andros took possession of the two colonies when he seized the other northern colonies, and ruled until his deposition, after which the former governments were resumed. In 1702, the proprietors surrendered their powers to the crown. The king re-united the two colonies as New Jersey, and placed the province under the governor of New York, allowing the legislative assembly to be retained. In 1738, it was made into a separate province, and was permitted to retain the constitution and form of government given to it by the proprietors.

Pennsylvania. — The territory was granted to William Penn in 1681, and he at once sent out a colony to take possession. The following year he prepared a form of government for his colonists, vesting all power in the proprietor, or in a governor appointed by him, and in a council and legislature elected by the people. Among the first laws passed by the legislature was one ordering that no one believing in Almighty God should be molested in his religious views, and making faith in Jesus Christ a qualification for voting and holding office. At a subsequent time, Penn granted a charter of liberties, extending the privileges before given. Upon the accession of William and Mary, the loyalty of Penn to those sovereigns was suspected, and the province was taken from him and placed under the immediate government of New York. In 1694, the government of England became convinced of Penn's loyalty, and the province was restored to him. In 1701, Penn granted to his colony a charter still more liberal than the former one, under which the colony continued until the Revolution.

Georgia. — In 1732, a grant was made to James Oglethorpe of a tract of land to extend from the Savannah river to the Altamaha river, in trust for the poor. In the settlement made the following year by Oglethorpe himself, the settlers were not permitted to become owners of the land which they cultivated. The colony did not flourish, and, in 1752, the trustees in whose

hands Oglethorpe had left the colony surrendered their trust to the crown. The colony thereupon became a royal province, all the officers being appointed by the king.

TENDENCY TOWARD UNITY.

Many of the earlier settlements in the colonies were made as individual enterprises, — unconnected with others. Plymouth was peopled by a band of men and women who had no assistance from, and no reliance upon, any other colony or any government. Salem and Charlestown received their first inhabitants without any aid from company or government. The first settlers along the coast of Maine were scattered bands, who appeared to seek homes at distances from others, with whom they had no connections. In Rhode Island, two settlements were made at an early day as separate colonies. In most of these cases, each settlement organized a government of its own and for itself, and without any reference to any neighboring settlement or to any other government. In New Jersey, Pennsylvania, and Delaware, there were early scattered settlements of Dutch, Swede, or Finn, and they seem to have been without any but a crude sort of government. The two settlements first made in North Carolina were independent of each other and of the world, and each organized a government for itself. As already shown, the settlements that were made under the direction and control of companies or proprietors of colonial territory were supplied with forms of government, — a separate set of forms for each separate colony.

In process of time, these colonies became cognizant of each other's presence, and they made acquaintances, one with another. As the Indian difficulties crowded upon the settlers, there grew up a desire for association and co-operation. At first the co-operation was temporary, formed for a special occasion. As these occasions of need became more frequent, and as the advantages of co-operation became known by actual experience, the tendency

grew toward a permanent co-operation by consolidation of settlements. Thus, in 1639, as already shown, the colonies of Hartford, Wethersfield, and Windsor united into one colony, known as the Connecticut colony, and was joined by the Saybrooke settlement five years later. In 1665, New Haven joined the others, and thenceforth these formed the colony of Connecticut.

In 1643, the four colonies of Plymouth, Massachusetts, Connecticut, and New Hampshire formed a confederacy, called the United Colonies of New England. The object was "the better to provide for their common security and welfare." The confederacy had control of such methods only as related to the defense and safety of the four colonies, and were managed by a commission consisting of two delegates from each colony. Each colony had charge of its local affairs as heretofore. The settlements of Providence and Rhode Island united in 1644, and soon afterwards assumed the joint name, "Rhode Island and Providence Plantations." As stated before, the settlers in New Hampshire were united to Massachusetts during eighty-five years prior to the Revolution. Soon after 1652, Massachusetts asserted authority over the settlements of Maine, as far east as the Kennebec river. By the new charter of 1691, the jurisdiction of Massachusetts was extended eastward so as to include all of Maine and Nova Scotia. By this same charter, the strong colonies of Plymouth and Massachusetts were permanently united as Massachusetts.

The movements in the colonies south of the Hudson river were not always and altogether in the direction of union. New Jersey was divided in 1676, and so remained until 1702. Delaware became a part of Pennsylvania by grant from the Duke of York and Albany. It remained in the jurisdiction of that province until 1702, when it was allowed to partially withdraw and to set up a legislature of its own. The union was wholly severed during the war of the Revolution. When first settled

North Carolina and South Carolina constituted one province, with three separate colonies. In 1729, a division was made, and they become two colonies.

Besides the tendency of the colonies to co-operate and unite, in their early history, as stated above, there may be traced through their later history a tendency to form more extensive alliances, outgrowths of a national idea. It is not doubtful that the earlier alliances and unions, made by the colonies when they were weak settlements, were faint beginnings of the same idea, but not developed for many years. When the colonies were strong enough to attract the attention and the cupidity of European governments, they had more trouble than the savage Indians gave to them. They became, of necessity, embroiled in all the wars that affected England. France and England were hereditary and relentless foes. The colonies and possessions of those two nations in America were not distant from each other, and, in some places, the claims of the one overlapped the claims of the other. As the two nations were in a state of almost chronic warfare, the English colonies had to defend themselves against the French armies, the French colonies, and the Indians. Then it was that the colonies most felt the need of more thorough alliances and more active and efficient co-operation. Then the idea of nationality displayed wonderful development. As early as 1697, William Penn suggested and urged a union of all the colonies. Later, in 1722, Daniel Coxe, of New Jersey, called the attention of the colonies to the same idea. Benjamin Franklin and other statesmen were fully alive to the importance of the growing sentiment, and aided in its dissemination. Even the English ministry adopted the idea. In 1754, the threatened war between England and France seeming to be inevitable, the government of England suggested to the colonies that they unite in some scheme for a common defense. Accordingly, July 4 of that year, a conference was held at Albany, consisting of delegates

from all the colonies of New England, from New York, Pennsylvania, and Maryland. At this conference, a plan, drawn by Benjamin Franklin, was adopted. By this plan, a governor-general was to be appointed by the king, and a council of delegates was to be elected by the people of the colonies; these were to constitute the government of the united colonies, with power to pass and to enforce laws for raising money, levying troops, regulating trade, and laying duties. The governor-general was to have a veto upon the laws passed by the council. The plan was rejected by the colonies and by the king: the colonies thought that it gave too much power to the king, and the king thought that it gave too much power to the people.

In 1765, during the excitement growing out of the passage and attempted enforcement of the Stamp Act, the legislature of Massachusetts sent circular letters to all the other colonies, inviting them to send delegates to a congress, which should meet in New York, to deliberate upon the condition of affairs and to suggest measures for the common welfare. On the assembling of the congress, October 7, delegates were present from Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, and South Carolina. The other colonies were in full sympathy with the objects of the congress. This was called the American Congress. It drew up a Declaration of Rights, asserting that only their own representatives had power to tax them, and only their own juries to try them. It also sent a petition to the king and a memorial to Parliament. Two years later, upon the passage of the act imposing the tea-tax, the legislature of Massachusetts again sent letters to the other colonies, calling for a union of all, in order to enforce a demand for a redress of grievances, and it refused to withdraw the call at the demand of the king.

As early as 1773, most of the colonies appointed committees of correspondence, in order to keep up an interchange of opinion and suggestion with each other, and to intensify the senti-

ment of national unity. The following year, the provincial assembly of Massachusetts convened at Salem and adopted resolutions calling for a general congress of all the colonies, at the same time appointing five delegates to that congress. The other colonies accepted the idea of a congress, and appointed delegates. The congress met at Philadelphia, September 5, 1774. The governor of Georgia prevented the election of delegates by that colony; all the other colonies were represented. This congress adopted a second Declaration of Rights, and recommended an American association pledged to non-intercourse with England. Before adjourning, it provided for another congress, to be held in May, the next year. This congress of 1774 is known as the First Continental Congress. Its name is a guaranty of the decay of the colonial sentiment, and the growth of the national idea. In the meantime, the assembly of Massachusetts met and resolved itself into a provincial congress. It then proceeded to organize a body of militia ready to take up arms and to march at a minute's notice; from this they became known as "minute men." A committee of safety was appointed to have charge of matters of defense. Other colonies promptly followed the example set by Massachusetts.

A second continental congress convened May 10, 1775, at Philadelphia. It sent a petition to the king, appointed a committee of secret correspondence with the colonies and with European nations, and assumed the authority of a government over the colonies as The United Colonies of America. The royal authority substantially closed, in all the colonies, during the year 1776, by the withdrawal of the governors. In June of that year, the congress, by resolution, declared "that these united colonies are, and of right ought to be, free and independent states," and appointed a committee to draw up a proper declaration. The committee reported the Declaration of Independence, and congress adopted it July 4, 1776. More than a year before, however, the people of Mecklenberg Co., N.C.,

had declared their independence of England. On the 17th of November, 1777, Congress agreed to articles of confederation of the colonies, and sent them out to the colonies for their adoption. They were duly adopted, and the confederate government was afterwards organized.

When the war of the Revolution had closed, and efforts were made to create a national government on the basis of the Articles of Confederation, the weakness of those Articles became painfully apparent. The statesmen began, quite early, to discuss methods of relief. Early in 1786, the legislature of Virginia advised a convention for establishing a better system of commercial regulations. Pursuant to this action, a convention was called to meet in Annapolis, in September. As five states only had sent delegates, no action was taken by the delegates present, except to unite in a call for a convention to revise the Articles of Confederation. The colonies responded to this call and sent delegates to Philadelphia, in May, 1787; Rhode Island being the only colony not represented. George Washington presided over the convention, which was composed of the ablest men of the colonies. The convention soon decided that it was not advisable to amend the Articles of Confederation, and it proceeded to form a constitution upon a different plan. The constitution was completed, adopted, and signed, September 17, 1787. The several states ratified it as follows: —

Delaware	December 7, 1787.
Pennsylvania	December 12, 1787.
New Jersey	December 18, 1787.
Georgia	January 2, 1788.
Massachusetts	February 6, 1788.
Maryland	April 28, 1788.
South Carolina	May 23, 1788.
Connecticut	June 9, 1788.
New Hampshire	June 21, 1788.
Virginia	June 26, 1788.
New York	July 26, 1788.
North Carolina	November 21, 1789.
Rhode Island	May 29, 1790.

As provided by itself, the constitution took effect June 21, 1788, upon its ratification by the ninth state. It could affect those only which ratified it. Soon after it went into operation, it was ratified by the remaining states, and became the constitution of the NEW NATION.

When the time came for the organization of a new government, the people were prepared for a popular form, such as the nation now has. With the exception of Georgia, all the colonies had enjoyed something of a popular form of government, and most of them had felt the satisfaction that results from a legislature elected by the people and responsible to them. Some of them had even had a double legislature, though in a crude form, the council being a sort of upper house in some of the colonies. Three had tried a pure democracy, for a time. Most of them, by co-operation with sister colonies, had known by experience that "in union there is strength," and this had been more fully impressed during the struggle for independence. That last great struggle had taught them the necessity for an executive and a judicial department of the government. The Colonial Congress and the Continental Congresses were felt to have been, as they really were, but committee-delegates from the colonies for advice. A confederacy had been tried; its defects were found to be serious. The people were prepared for a union of the colonies into a nation, having all the semblance, character, and powers of a nation. The people were prepared, also, to insist, if need be, upon a form of government in which all political power should reside in themselves. Having tasted, though but daintily, of the sweets of a government free from hereditary rulers, and without the restraints and oppressions of arbitrary authority, they were prepared for a government of the people, to be administered by the people and for the people. We shall see, as we study the provisions of the constitution, how they wrought out the idea of nationality and of freedom, which had been growing for more than a century.

PREAMBLE OF THE CONSTITUTION.

The courts do not regard the preamble of a law or of a constitution as a part of that law or of that constitution. But when any portion of a law or constitution is not quite clear, or is not easily understood, the courts will turn to the preamble for explanation. In the historical and political study of a constitution of a state or a nation, the preamble may be a very important part. This is especially the case with the preamble of the constitution of the United States. It explains the necessity of the constitution, the purposes of it, and by whom it was formed. A reference to the preamble of the constitution has settled more than one point of political discussion concerning the extent and scope of several constitutional provisions. The preamble states seven points concerning the origin and purpose of the constitution.

1. **By whom formed.** — This preamble decides who formed the constitution and who constitute the nation. The Articles of Confederation, under which the Thirteen Colonies had been united during the larger portion of the period since the beginning of the Revolutionary War, were articles of agreement between the colonies. They united the colonies into a confederacy, but they did not form them into one nation. Under these articles each colony was as independent of all others as it had been before. Although they contained agreements that no colony would act independently in certain matters, there was no means provided by which those agreements could be enforced. In fact, there were several sections of those articles under which some of the colonies refused to act. No nation

can be formed of sections of country which are free to obey or disobey the provisions of the national constitution. Under the constitution the states became a Nation. Certain rights which each state had possessed were given up, and each one thereby became a state in the nation, with such rights of independent action as were reserved or allowed by the constitution. In the Articles of Confederation, the colonies styled themselves states, but their character as states was altogether different from their character as states under the constitution. The preamble expressly declares: "We, the People of the United States, do ordain and establish this constitution." After its adoption by the convention, it was submitted to a popular convention in each state. The members of those popular conventions were elected by the people of each state, after a thorough discussion of the constitution. Through the adoption of the constitution the states were more firmly united and the people became one nation. Discussion is likely to arise always, concerning the extent of the powers given to the general government and concerning the rights and powers reserved to the separate states by the constitution, but it is clear that the people of the United States are, under the constitution, ONE NATION.

2. More Perfect Union. — The principal purpose of the Articles of Confederation was to enable the colonies to act together in resisting the aggressions of England. For that one purpose, even, it was not perfect. But after the close of the war, an attempt to govern the colonies under those articles showed the weakness of the confederacy. There were four principal weak points in the confederate system: (*a*) There was no central legislative authority. There was a so-called congress, composed of delegates from each colony, but its authority seems to have been restricted to the settlement of disputes between themselves, and to representing the colonies in their intercourse with foreign nations in war and in peace. The congress was simply a committee of the colonies. (*b*) There was no central execu-

tive authority. (*c*) There was no judicial system. The only semblance of such a system was the authority given to the congress to determine disputes between the states, and disputes arising from conflicting grants of land by different colonies. (*d*) There was no national treasury. The congress fixed the proportion of money due from each state for the general expenses; but it had no method of collecting it. Without the four marks of national authority named above there could be no nation. In addition to these, there were no means provided for keeping the colonies together if they did not wish to so remain. In name, the articles were to be perpetual; but there was no method provided for making them so in fact, and no means furnished for compelling a state to perform its agreements. The weakness of the confederacy was found in this: the states acted and were acted upon as independent bodies. Under the constitution, the states are hardly known in the administration of the government, but the government and its officers act upon the individual citizens. It will be noticed that the word "union" means a condition of being one; hence, a perfect union must be a perfect oneness. The colonies could not retain their independence and be states in a perfect union.

3. To Establish Justice. — This was a second object of the constitution. This is the same as saying that the constitution was formed for the purpose of protecting all its citizens in the enjoyment of all their rights. (The student should trace "justice" to its Latin root-word "jus," *right*.)

4. Domestic Tranquillity. — There can be little, if any, enjoyment of rights when society is disordered. The framers of the constitution had realized that fact during the Revolutionary War. Turmoil and trouble arise mainly from injustice and oppression; hence the constitution aims to secure tranquillity through the establishment of justice.

5. Common Defense. — The formation of the confederacy was the result of a necessity to provide for the defense of the

people of the colonies. All nations must provide for their defense, must always be ready to resist attack. All governments have this as one of the necessary objects of their existence. This means more than simply a defense of the national existence, of its governmental character. It must mean a defense of all parts of the nation and all the citizens of the nation. Upon the modern and best theory of government, the humblest citizen of a nation is entitled to the whole power of the government, police, military, and naval, to protect him in the enjoyment of his rights at home and abroad.

6. General Welfare. — Monarchs are not always very solicitous about the welfare of their subjects; they seldom are except so far as that welfare can help them in their ambition. This is because the interests of the rulers are not the same in monarchies as the interests of the ruled. In the formation of the government of the United States it is provided that the rulers and the ruled shall be the same, and that their interests shall be the same. Everybody is thus interested in the welfare of everybody else. It was a great step in the history of governments when the promotion of the general welfare of the people was made a prominent purpose in the construction of a form of government.

7. Secure Liberty. — It would seem that, when justice is established, domestic tranquillity assured, and the general welfare promoted, the blessings of liberty would be sure to follow. But the patriots who framed the constitution chose to enumerate this as one of the objects of the government, so that there could be no chance for a mistake on this subject. The war of the Revolution had just closed, and the right to liberty had been secured, but they knew that liberty itself could be secured and made permanent only by a wise, liberal, and just government. Such a government the convention attempted to frame. This section of the preamble shows that it was intended that the form of government should be permanent.

BILL OF RIGHTS.

The convention adopted the constitution, September 17, 1787, and delegates from all the states, except from Rhode Island, signed it. When the constitution came before the people of the states for ratification, it was found to be deficient in an important particular, — it did not recognize in words many of those personal rights which the people believed themselves to possess. Some of those rights had been announced in the Declaration of Independence, and for them they had carried the war of revolution to a successful close. In order to avoid the loss of time and expense of another convention, it was generally agreed that the first Congress should propose proper amendments covering the deficiency. With this understanding, the constitution was ratified by states enough for it to take effect. Two states, Rhode Island and North Carolina, did not ratify it until after the adoption by Congress of the proposed amendments. These amendments embrace what is known in state constitutions as Bill of Rights. They recognize and secure fundamental rights which no legislature, no decree of courts, no act of the executive authority, can violate. They are considered inestimable and, in the language of the Declaration of Independence, "unalienable." An inspection of the constitution will show that it contains six provisions which might be embraced in the Bill of Rights. All the others are found in the amendments. It will be more convenient and add to clearness of apprehension to bring them all together under one head.

1. **Habeas Corpus.** — When a person is illegally imprisoned, he may apply to a court for his release, stating the facts

that show the illegality of his imprisonment. The court then issues an order to a sheriff or constable, directing that the imprisoned person be brought before it for inquiry into the cause of the imprisonment. In early times, in England, the orders of the courts were written in Latin. Many of the orders of courts are called writs. This writ began, *habeas corpus*, meaning, "you may have the body" of the person named. The right to apply for this writ is one of the safeguards of a free citizen. But for it, a person illegally imprisoned might have no method by which he could prove his innocence. There does not seem to be any reason why the privilege of applying for this writ should ever be suspended; but it is a wise provision refusing its suspension in times of peace. This provision is found in section nine of Article I.

2. Bill of Attainder. — In the same section of Article I., it was provided that no bill of attainder shall be passed. This is a direct restriction upon the powers of Congress, but it has a more general effect. The restriction is upon all the officers of the government; for if Congress should pass such a bill, the oath of every officer of the government will compel him to refuse to enforce it, and the courts would be compelled to declare it illegal. A "bill of attainder" is a special law that passes a decree of conviction, upon the person named in it, of treason or other crime, with sentence of death or forfeiture of estate, or both. Such bills were not uncommon during the troublous times of English history. The accused had little, if any, opportunity to make a defense. The injustice of this system of trial for crimes was so apparent that the framers of the constitution provided against its use in this country.

3. Ex Post Facto Law. — The same section of the constitution also forbids the passage of an *ex post facto* law. This term means, "after the deed." It is usually applied to such laws as relate to actions already past. As every one is supposed to guide his conduct, civil and criminal, by the laws in force at the

time that he performs an action, it is not considered just that one should be punished for a crime more severely than the law provided when the crime was committed. Thus, a man may be willing to incur the penalty of imprisonment in the penitentiary for horse-stealing, while he might not steal the horse if the penalty had been death. Therefore, after a man had stolen a horse, when the penalty of the law is imprisonment, it would be a breach of faith and an injustice to change the penalty to death, and then enforce it upon him. And so with reference to other crimes. No increase of a penalty for a crime can be visited upon a person for a crime committed before the increase. So, a law cannot make a new crime, and then punish a person for a deed committed before the law made that deed a crime. In civil transactions, the rule is the same: no change in a law can affect any contract made before the change. This rule is founded so strongly in our sense of justice that it might be said to protect an inherent right.

4. Jury. — The right to a trial by jury, when charged with a crime, dates from very early times in English history, and, in the law of England, means by a jury of twelve persons. In England, as in other monarchies, all crimes that were committed were committed against the king or monarch. All prosecutions for crime were brought in the name of the king. The king appointed the judges and all the other officers of the court. The subject had little security when charged with crime. He could be convicted, if the king so desired, without regard to his guilt or innocence. It was a great reduction of kingly power, when the king of England was compelled to allow the trial of his subjects by a jury of their peers. Ever since then, the right to trial by a jury has been considered very important, and no king of England could retain his crown should he try to abrogate the right. The reason for insisting upon a jury in the United States is not so strong as in England. Here the people are the rulers; their judges and other officers of the courts are

elected or appointed, and all prosecutions are brought in the name of the people, or of the state. The people, just emerging from a war with England, thought it safer to insist upon this right (Art. III., sec. 2).

5. Rights in Other States. — In the second section of Article IV., it is provided that "the citizens of each state shall be entitled to all privileges and immunities of citizens of the several states." There is much question as to the full meaning of this provision; the courts are neither clear nor uniform in their attempts at interpretation. It would appear to be one of the provisions enforcing the idea of one nation. While each state is permitted to determine for itself the qualifications of all who may vote or hold office within it, it cannot prohibit the citizens of other states residing and doing business within its limits. Thus, the citizens of any state, by residing within another state, may enjoy all the privileges and protection enjoyed by any citizen of that state. This section would seem to place all citizens of all the states upon an equality, except in respect to the affirmative rights that are considered inherent and inalienable. These cannot be called privileges.

6. Religious Freedom. — The last clause of Article VI. says that "no religious test shall ever be required as a qualification to any office or public trust under the United States." The scope of this section is very broad, very much broader than, at first, appears. It means that no one has a right to regulate our conscience, or our worship, for us; nor has any body of people, whether legislature, congress, or nation, any such right. That a person belongs to any particular church, or does not belong to any, or that he entertains a certain religious belief, cannot be urged against him as a qualification or a disqualification for office or for jury service. This does not say, nor does it mean, that the nation, or the law, or the courts, only, shall not apply the religious test: it means that no one has a right to apply that test. If a voter votes for, or against, a

candidate solely because of that candidate's religious belief, such voter would violate the spirit of this part of the constitution. Upon the best theory of government, the secular authorities have nothing to do with a person's religious belief. Americans do not believe that the conscience should be placed under the control of men. They believe that all men should be protected in the full and free enjoyment of their religious beliefs, and they emphasized that belief in this provision of the constitution.

7. (**Amendment 1.**) — At the time of the formation of the constitution, nearly all the governments of Europe had an established religion; that is, a religious system which was supported by the government and to which each subject had to assent, in some degree. These governments also prohibited, some of them always, some of them sometimes, any criticism of the government, by individuals, either orally or in writing or print, and did not allow the people to meet peacefully for a discussion of their relations with the government, nor to petition the government. The people of the colonies had keenly felt the injustice and the actual hardships of these prohibitions. They came to regard all these acts as perfectly innocent, and as rights that belonged to them as human beings. They constitute a portion of the means by which the people can enjoy the right to "the pursuit of happiness." Accordingly, the first amendment to the constitution contains a recognition of the rights of the people in all those respects. Of course, this provision does not allow disorderly meetings, nor conspiracies to resist the execution of the laws, nor attempts to overturn the government.

8. (**Amendment 2.**) — Rulers who do not have the love and affection of their subjects cannot safely allow those subjects to keep and control fire-arms. It is a matter of history that the subjects of those European governments which furnished the early settlers of the United States did not have that privilege.

As has been shown, the framers of the constitution intended that the rulers and ruled should be the same; that there should be no fight between the government and the people. In the early history of the American colonies, the safety of the people often depended upon arms which they kept in defiance of the government, more than upon any army, and the danger from Indians had not altogether ceased when the constitution was formed. A government that would trust its citizens with freedom to keep and to bear arms must preserve its character for justice, and it was partly for this purpose that the right of the citizens to bear arms was formally acknowledged in the constitution.

9. (**Amendment 3.**) — This amendment recognizes that each man's house is his castle, to be his defense against the government as well as against his neighbors. In times of peace there can be no necessity for any encroachment upon a man's private dwelling. A necessity may exist in times of war, but it should be exercised only in the manner which the law has deliberately provided. Such encroachments upon private rights should not be left to the irresponsible discretion of any officer. This provision virtually condemns the practice so common, once, in Europe.

10. (**Amendment 4.**) — There can be no liberty among the people without this protection. No person is free if his home or his property can be invaded or seized at the pleasure of another. The right to the uninterrupted enjoyment of one's property is included in the right to "the pursuit of happiness," which the Declaration of Independence declares to be inherent. This is on the theory of Shylock's famous remark: —

> "You take my life
> When you do take the means whereby I live."
>
> — *Merchant of Venice, Act IV. Sc. 1.*

This provision introduced a feature new to governments at that time, although the English government had been forced to a slight change in the direction of this section. Other governments searched private property at pleasure, and many do now. Under the laws that have been passed to carry out this provision, before a search can be made, a sworn complaint must be made to a judicial officer, stating minutely what places are to be searched, or what things or persons are to be seized, that the person making the complaint has the right to the things described, or that the person named has committed a crime named. Such search or seizure will be authorized by a warrant from an officer, and must be made by an officer. An officer, or other person, who searches a place, or who seizes a person or things without such a warrant, is guilty of a crime and can be punished.

11. (**Amendment 5.**) — (*a*) GRAND JURY. In order that prosecutions for suspected crimes may not be entered upon lightly, and that the person suspected of crime may not be put to the expense and annoyance of a defense if innocent, a grand jury, consisting of not less than sixteen, and not more than twenty-three men, as the judge may order, must first hear the evidence for the government. If this evidence is so strong as to convince the grand jury that the suspected person probably committed the crime, it makes the charge, stated in minute detail, called an indictment. This indictment is usually written by the attorney for the government. Upon the back of this indictment the foreman of the grand jury writes "A true bill," and signs his name beneath. Until this indictment is so found by a grand jury, no person can be tried in a United States court for a crime punishable by death, or by imprisonment in the penitentiary. The reason for a grand jury is the same, in other respects, as the reason for a trial jury. (See page 27.) This system does not always protect the citizen against hasty or unjust prosecutions, but it usually does so. The army and

navy could not enforce their needed discipline by any such system. In those branches of the service, there is a necessity for prompt punishment of offenses. Hence, this system is not used in the trial of offenses against military and naval rules. When the militia of any state is in actual service, it is in the position of the army, and is excepted from the grand jury system.

(*b*) Two Trials. In some European countries, even now, it is not uncommon for the government to hold a person after acquittal to try him a second time, or more. This is neither right nor just, because the government is so much stronger than any individual, and can conduct prosecutions at less expense. Thus, a government could ruin any individual at its pleasure, if it were allowed to continue to try him until it found a jury that would convict. The necessity for this prohibition is not so strong in the United States as it was in England, or in any monarchy. But even in this country, where party feeling often runs high, leaders opposed to the governing party might be accused of crimes and held for repeated trial, even if innocent, so as to remove their influence, if there were no constitutional prohibition. Sometimes a guilty person will be acquitted, but it is an adage of some force, that it is better for nine guilty persons to escape punishment than for one innocent person to suffer.

(*c*) Testimony. In criminal trials, the government makes a charge against a person, and that person denies the charge; as, in civil cases, the plaintiff makes a charge against the defendant, and the defendant denies it. It is considered just that those who make charges against others must furnish the proof. So the government ought to be compelled to furnish the proof of crime before a person can be convicted. The practice, not infrequent in earlier European history, by which the accused person was compelled to testify and to furnish the proof of his crime, often having the testimony extorted under torture, is abhorrent to our sense of justice and humanity.

(*d*) Due Process of Law. This term is interpreted by the courts to mean those proceedings and those forms prescribed by statute or by the common law. This means that before any one can be punished for an offense by death or imprisonment, and before he can be arrested, even, for an offense, and before the government can take the property of an individual, either as forfeiture or for public use, the law must state all the circumstances under which either can be done. That is, the law must state what shall be the punishment for a crime before one can be punished for that crime. The law must also state the manner and method of all the proceedings in the arrest and trial for the crime, as well as the manner of punishment. So, the government cannot take the property of any one for public use until the law has set out the uses for which it can be taken and the method of taking it.

(*e*) Eminent Domain. It is recognized, almost universally, that the rights of the many are above the rights of the individual. Indeed, there could be no government except upon this theory. Therefore, when the public needs the property of an individual, it has a right to take it. While all governments have always acted upon this theory, they did not formerly recognize any obligation, resting upon the government, to pay for the property so taken. The founders of our system of government saw the justice of paying for property taken. All the citizens have an interest in the government, and all derive some benefit from property taken for public use. Common justice demands that those who receive benefits should pay for them. Besides, if compensation were not obligatory, the door would be open for the rankest oppression on the part of the men who have the selection of the property needed, and leading opponents of the party in charge of the government could be, and probably would be, often ruined.

12. (**Amendment 6.**) — This section also was a departure from the practice of many European governments. Under that

practice, a prisoner had none of the rights herein named. Some of them might be, and often were, granted to prisoners as favors, but never as rights. Prisoners were often confined in prison for years without being tried, and sometimes they died there without trial. This was especially true of those charged with state or with political crimes. Some were taken for trial to distant places, away from their friends and their witnesses, frequently without any knowledge of the nature of the crime imputed to them. All this made their defense more difficult, and their conviction more easy. The prisoner was often kept ignorant of the persons who testified against him, as well as of the nature of the testimony, and instances were not rare in European history in which he was not allowed witnesses in his behalf. Until quite recent times, even in England, the prisoner was not allowed to have a lawyer to help him make his defense. In all respects, he had to make whatever defense he did make in the dark. A bare statement of the course of European courts, in criminal prosecutions, is enough to show its injustice, and the wisdom of the amendment prohibiting such practice in the United States.

13. (**Amendment 7.**) — In England, the right of trial by jury dates from very early times, and means a jury of twelve men. The jury-system, then, was a great protection against the oppression of the courts. It enables all suitors to have the people decide the facts of their case, while the court decides the law. This was so important to English subjects that the framers of the amendments to the constitution made this one of the constitutional rights of the American citizen. The form and character of the government of the United States are so different from those of the European governments, that the jury is not so important to us as to Europeans. Its abolition is seriously discussed. It has been modified in many of the states. The common law (the rules of proceedings in the courts of England at the time of the formation of

the constitution) provided methods for having suits re-examined in higher courts, and this amendment prohibits such re-examination, except by those methods of the common law, and prohibits any change in those methods.

14. (**Amendment 8.**) — When a person is accused of a crime and he cannot be tried at once, he is usually admitted to bail, if the crime is less than murder. To give bail is to give a bond with security that he will be at the court and submit to his trial. When this bond is given, the accused is allowed to go free until the time set for the trial. The amount of this bond must correspond with the seriousness of the crime charged. One hundred dollars might be a sufficient bond in a case of assault and battery, while five thousand dollars might not be too much in a charge of manslaughter. In cases of stealing, the bail is usually fixed with reference to the amount stolen. In theory, the bail should be so high that the accused cannot afford to run away from trial, and yet not so high that he cannot find friends enough to advance the security. If the bail is for a greater amount than is necessary to secure his presence at the trial, it is excessive. "Cruel and unusual punishments" are such as have not been inflicted under the common law.

15. (**Amendment 9.**) — The old theory of government was that the people possessed no rights. Privileges might be granted to them by the sovereign and withdrawn again at pleasure, and often were. The ruler alone had rights. The sentiment of the civilized world was changing slowly upon this point at the time of the Revolution, and the people of the colonies claimed personal inherent rights to life, liberty, and to the pursuit of happiness. It was not settled, when the constitution was formed, what the limits were to the rights that were inherent, and the people feared that a failure to name a right. in the constitution, might be construed to mean a denial of its existence. In order, therefore, that the people might not be deprived of any right which they had possessed, this amendment was adopted.

16. (**Amendment 10.**) — The government of the United States is confessedly one of delegated powers, only. It has no power except such as is given to it by the constitution. This would seem to be plainly set forth in the constitution itself. But the people had just been emancipated from a government that claimed to possess inherent and unlimited power, and they had suffered severely under that government. They were naturally distrustful of governments, and feared that the new government might arrogate to itself the powers that other governments claimed. Under this amendment, when no power is given over a subject by the constitution, and is not prohibited to the states, such power resides still with the people of the states. But this amendment should not be construed too strictly. It is held by courts and statesmen, that the grant of a power to an officer or to a political body carries with it all the power that is needed to make that grant effective. Thus it has often been found, in the history of the United States, that certain action, on the part of Congress or of the President, has seemed necessary in the due and proper administration of the government, and yet the constitution has given no authority for the performance of such action. So, during the late civil war, Congress and the President took action in many cases which seemed to them of doubtful constitutionality, while yet such actions were essential to the success of the war. They felt that they were bound by their oath of office, and by their feeling of patriotism, to preserve the Union at all hazards. Courts have held, in the case of inferior officers whose powers and duties are strictly defined, that the authority to do an act carries with it authority to use such means as are necessary for the accomplishment of that end. In such spirit, this amendment should be construed.

17. (**Amendment 13.**) — By the adoption of this amendment, in 1865, it may be considered that another section was added to the Bill of Rights. Although the Declaration of Independence

used very general terms in its announcement that "all men are created equal," and are endowed with rights to "life, liberty, and the pursuit of happiness," the government was administered, for nearly ninety years, on the theory that white men only possessed those rights. Those who claimed a right to hold slaves disclaimed the pretense that that right depended upon the color or nationality of the persons held. This theory was undermining the right of white men to their liberty. The failure of the war of 1861–65 gave the opportunity for a permanent statement in the constitution of the inherent and inalienable rights of all the residents in the United States to life and liberty. Thus the constitution was brought into harmony with the Declaration of Independence.

18. (**Sec. 1, Amendment 14.**) — On page 27, doubt is expressed as to the precise meaning of the first clause of section two, Article IV. This amendment seems to supplement that provision. Under this section, all persons born or naturalized in the United States, and residing therein, are citizens of the state in which they reside, and whatever privileges or immunities any state bestows upon one citizen must also be bestowed upon all the others. This amendment was adopted in 1868 as a protection to the newly enfranchised citizens of the states lately in secession, to whom equal protection of the laws, and equal privileges, were denied. The effect of this amendment is to create but one standard of citizenship in all the states and to compel each state to recognize the citizens of all other states as citizens of itself upon their removal within its borders. It may be a question how far the citizen of one state, removing to another state, can have his privilege to vote and to hold office and to sit on juries, curtailed or restricted.

19. (**Amendment 15.**) — This article recognizes, by implication, the right of a state to restrict the right or privilege to vote for some reasons, but it prohibits such restriction for reasons of race, color, or previous condition of servitude. So far then as

a constitutional provision can confer a right, this amendment may be said to recognize the right of a citizen of the United States to vote, and it refuses to allow a denial of that right unless such denial is based upon reasons that apply to all races and colors.

THE STATE.

SOON after the formation of the constitution it was expressly stipulated by the tenth amendment that all powers not granted therein to the United States, nor prohibited by it to the states, were reserved to the states themselves. Each state has a system of government which concerns itself more completely with local affairs and interests than the national government does. Each has a sphere of rights, duties, and privileges, apart from the other. The state government is divided into three branches: executive, legislative, and judicial.

Officers. — The general officers of a state usually are a Governor, Lieutenant-Governor, Secretary of State, Treasurer, Attorney-General, and Comptroller or Auditor.

THE GOVERNOR is commander-in-chief of the military forces of the state, and it is his duty to see that all the laws are executed. When the legislature assembles, he sends it a message, giving such information as he deems necessary, and recommending such measures as he thinks advisable. He may call a special session of the legislature if he finds it necessary. In some states he may grant pardon to criminals, but in others he can only do this by and with the consent of certain official advisers designated by law. All bills passed by the legislature need the approval of the governor before they become laws. If he does not approve of a bill he may return it to the house in which it originated, stating his objections; if the two houses still concur in passing it, notwithstanding his objections, it then

becomes a law the same as if he had approved it. But the majority of each house, to pass a law in this manner, must be greater than before; in some states a majority of two-thirds is required, and in others a majority of all the members elected to each house is sufficient. This function of the governor in legislation is called the *veto power*, and it is one of the most important with which he is vested.

In most states the LIEUTENANT-GOVERNOR is President of the Senate and has the casting vote. Through the death, resignation, impeachment, or other disability of the governor, the duties of that office devolve upon him for the rest of the term. In Massachusetts the lieutenant-governor is an *ex-officio* member of the Governor's Council, but has no duties in connection with the Senate. In a few of the states there is no such officer. Maine is an example; the Constitution not providing for a lieutenant-governor, the President of the Senate, elected by that body, assumes all the duties of the office upon the death, resignation, or impeachment of the Governor.

THE SECRETARY OF STATE is the keeper of all the official records, executive and legislative, and of the election returns, and may furnish certified copies of the same to all persons authorized to receive them.

THE TREASURER has charge of all the money paid into the treasury, paying it out again upon warrants properly certified.

THE ATTORNEY-GENERAL appears on behalf of the state in all litigation in which the state is an interested party, prosecutes criminals, and prepares drafts of contracts, and other papers on behalf of the state.

THE AUDITOR, OR COMPTROLLER, as he is called in some states, audits and settles accounts due to and from the state,

estimates the amount of revenue needed, and superintends its collection. He makes an annual report, with suggestions, in regard to the financial condition of the state.

The Legislature. — This is composed of two branches, a Senate, and a House of Representatives, or of Assembly, as it is called in some states. Each branch has a presiding officer, a President in the Senate, and a Speaker in the House, a Clerk, Sergeant-at-arms, and other officials necessary to preserve order, and for the convenience of members. The method of procedure is much the same as in the Congress of the United States, and each branch within the sphere of the state government has powers and duties similar to those granted to and exercised by each branch of Congress.

The Judiciary. — Each state has a number of courts for the trial of offences against persons and property, and for the settlement of disputed questions between citizens. The method of appointment of judges of these courts is not uniform in all the states: in some they are appointed by the governor, generally with the approval of some other officials designated by law, and their term is often during life or good behavior; whether elected or appointed, the term of office is generally longer in higher courts than in lower ones. Limitation on account of age is usual.

These vary in their jurisdiction, from the justice's court, which may try the smallest cases, to the highest appellate court. If a person is dissatisfied with the decision of a lower court, he may generally have his case carried to a higher one; and if the cause be of sufficient moment, he may carry it to the highest court for final decision.

Probate Courts. — That court which comes nearest to the whole people is the one that takes charge of the wills

of deceased persons, and under whose direction their estates are administered. The property of those who die without making a will is administered upon by a person appointed by this court, called an administrator. Under a will this court sees that all its provisions are faithfully carried out by the executor. The estate is in the hands of the court till the debts are paid and the remaining property distributed according to the will, or among the next of kin as provided by law.

In the different states this court does not always have the same name. There are Probate Courts, Surrogate Courts, Courts of Widows and Orphans, and in some cases this business is taken charge of by the County Court. Except in the case of a contested will, all the proceedings are very simple and informal.

The State is subdivided into counties, and these into cities, towns, and villages, or boroughs.

Each state has a constitution of its own which was made by a convention chosen by the people, and generally adopted by a popular vote. Its powers are exercised through three departments — Legislative, Executive, and Judicial.

The state makes and executes laws for the general welfare of all the citizens. It lays and collects taxes for the support of schools to educate its citizens, and promote general intelligence. It provides means for the restraint and punishment of the vicious and criminal; it directly supports, or aids in the support of, some classes of the poor, and makes provision for the unfortunate lunatics, imbeciles, and the sick and crippled. It is the policy of all governments, however, that this support shall come from the place where the disability was incurred, or the person has secured a legal residence.

The County. — The usual county officers are a judge, generally of probate, sheriff, clerk, treasurer, registrar, district attorney, coroner, and a board of commissioners, which in some states are called supervisors, freeholders, etc. Many of the states also have county superintendents or commissioners of public schools. These officials have various duties to perform, as their titles indicate.

In most states the county judge presides at county courts, attends to the probate of wills, and estates of deceased persons are settled under his direction, where there is no probate judge or surrogate; the sheriff is to arrest persons charged with crime, have the care of criminals and of the county buildings, including the jail or penitentiary, maintain order in court, and be the general peace officer of the county. The county clerk is usually clerk of courts held in the county, and administers the oath to jurors and records the judgments of the courts.

The treasurer receives the money collected for county taxes and pays it out for expenses, as directed by law. The district attorney is the prosecuting officer for the county; it is his duty to look after offenders, draw bills of indictment when found by the grand jury, and try the cases before the court. The coroner holds inquests upon the bodies of those suspected of death through mysterious or unlawful means. The county commissioners, etc., look after the county highways, bridges, buildings, etc. The county superintendent, or commissioner of schools, licenses teachers, visits schools, and apportions public money for their support, as directed by law

The City. — Most cities are governed by written charters received from the state. The usual officers are the mayor, aldermen, assessors, board of education, marshal,

or chief of police, superintendents of schools, streets, lamps, and public buildings. The aldermen, or city council, pass by-laws for the government of the city, such as are within the powers granted them by their charter, and provide means for their execution. The most common subjects for their legislation are the streets, sidewalks, pavements, lighting, water supply, protection against fires, and of public health.

The mayor is the executive officer of the city, and it is his duty to see the laws enforced. He also may veto the ordinances passed by the city council. The city courts try offenses against the city ordinances, and cases of theft and violence arising under the general statutes. It is the duty of the marshal, or chief of police, to see to the execution of the orders of the court.

The Town, Village, or Borough. — The town governments of New England are the nearest to the ideal of a pure democracy. Here the people assemble annually in town-meetings at the call of the "Selectmen," to choose the town officers for the ensuing year. They first choose a Moderator from among their number, to preside during their meeting and to preserve order. They hear the reports of the doings of their servants for the past year, and elect them or others for the ensuing year. At this meeting they vote how much money the town shall raise for taxes for the year, and how and for what purposes it shall be expended: so much for schools, for highways, for the support of the poor, for a fire department, and for improvements. All are equal; and many local affairs are legislated upon and decided by popular vote in town-meeting that elsewhere are delegated to elected officers.

A village sometimes has, and a borough always has, a

charter from the state enabling it to do many things that cannot be done under a town government; its powers to employ police, buy fire apparatus, pave and grade streets and walks, protect public health, introduce water, light streets, maintain schools, and make improvements, are in many respects equal to those of the cities.

Minor divisions of a town or township are usually school districts, with power to appoint trustees or directors, raise money for the erection and repair of buildings, and, in some cases, for the support of schools and the employment of teachers.

Voters. — To have the privilege of suffrage a person must generally be a citizen of the United States, and a resident of the state for one year, and of the town or county where the vote is offered for the last six months preceding. Some of the states are rather more liberal in their provisions; and some have amended their laws so that women having certain qualifications may vote at school meetings, and vote for and serve as school officers.

But in general, voters must be male persons, twenty-one years of age, and neither paupers, convicted criminals, lunatics, idiots, or non-residents. The voting is by ballot, and in places too large for the officers appointed by law to supervise the elections, to know each voter personally, various registry and other laws have been devised to protect the purity of elections, and to secure "a free ballot and a fair count."

An Alien may enjoy all the blessings of our free government, but he can have no voice in framing its laws, or part in their execution; he must pay taxes the same as the citizen, and he is benefited equally in their expenditure; but the amount to be raised, and the purposes for which it

shall be expended, are determined by citizens only. The alien may have the same civil and religious rights as the citizen, but not the same political rights, unless after a residence for a suitable term of years, he abjures allegiance to the government under which he was born and swears fealty to our government.

Laws. — The sources of the laws affecting the American citizen are two: the common law, which derives its force, as a rule of action, from established custom and long usage, and has been immemorially received and recognized by judicial tribunals; and law which has been enacted by local, state, and national legislatures. These derive their authority from constitutions and charters framed by the delegates of the whole people and afterward adopted by another set of delegates or by the majority vote of the people. The common law, which is unwritten law, prevails wherever there is no statute law which virtually repeals it. The statute law is enacted by the representatives of the whole body politic, is approved and enforced by its executive officers, and in case of violation or difference of interpretation, its judiciary declare its meaning and pronounce its penalties.

The object of all law is twofold, — protection to person and to property; all violations of human law are of one of these two classes of offenses. As the individual in organized society gives up some of his natural rights, he acquires in return the right to protection by society in the enjoyment of the fruits of his labors, securing to him the greatest freedom consistent with the freedom and rights of others. This liberty is mainly freedom from molestation or interference by others, so that the individual may be able to attain to the highest intellectual, physical, moral,

and religious culture of which he is capable; and he may have the utmost liberty of speech, thought, and action, so far as the exercise of these do not interfere with the enjoyment of the same rights by others.

Education. — In a popular government like ours, where every citizen has a voice and vote in public affairs, it is of prime importance that this vote should be an educated one. The intelligence of the people is the safety of the state. High aims and noble purposes are handmaids of education, while ignorance tends to idleness and vice.

Hence in a republic the people are willing to tax themselves freely for the support of schools; to erect good buildings, furnished with necessary apparatus, and presided over by competent teachers. And hence too, in many states, considerable funds, derived from the sale of public lands and from other sources, have been set apart, and the income forever dedicated to this purpose.

Most, if not all of the states, also have established normal schools for the better preparation of teachers for their work, where any person of suitable age and character can obtain an education, tuition free, and other privileges, upon the promise to teach within the state a certain number of years after graduating.

The states generally have a Superintendent of Public Instruction, or some officer that acts as such. In most of the states the counties too have such an official. The county superintendents report to the state superintendent, and he in turn to the legislature annually, what has been done in his department the preceding year, and makes such recommendations as he thinks necessary to further promote the interests of the schools. Where there are no superintendents for the counties, the local officers

of each town, school district, or city, report the details of educational work for the year to the state superintendent.

Several of the states have a compulsory education law, by which children between certain ages are obliged to attend some school a specified number of months in each year. The course of study in the different states is widely various; in some the law commands the maintenance of high schools, where pupils may be fitted for college, or given a corresponding education in all the higher branches; while in others the high school is a matter of local choice and provision; and in still others public schools impart only the most elementary instruction.

Licenses to teachers are granted by state, county, and local authorities; the requirements in different localities are widely different, and the proficiency and acquirements of teachers vary accordingly. But in all the states the standard is being raised, in response to the demands of the people for better educational facilities. The subjects of healthful location of buildings, proper ventilation, and heating and lighting, and general sanitation, are receiving in most localities the attention that their importance requires.

Marriage. — In this country, where the population nowhere crowds upon the means of subsistence, every encouragement is afforded by social and civil society to all persons of suitable age and habits to enter into the marriage relation. In some of the crowded countries of the old world the opposite state of affairs exists, and obstacles are thrown in the way of marriages.

The state regards marriage as a civil contract to which each party shall agree, they having arrived at a lawful age at which they can bind themselves by a contract. Relig-

ious bodies usually regard it as much more than a contract to be acknowledged before civil authorities; to them it is a solemn rite, to be administered by consecrated hands. Accordingly, in many of the older countries there is a marriage before both the civil and religious authorities. Generally, in this country, any ordained clergyman, justice of the peace, and higher judicial officers, mayors of cities, and aldermen in some states, may perform the marriage ceremony. No particular form of ceremony is prescribed by the state, or necessary to the validity of the act.

In some states a license must first be obtained from the city or town clerk, or other proper official; in others no such restriction is laid, and any authorized person may perform the ceremony before the necessary witness or witnesses, after having first ascertained that the applicants are of lawful age, and that no just cause or impediment to the marriage exists. All marriages must be reported to the proper local officer of city, town, or county, to be recorded.

Persons of feeble or unsound minds are incapacitated from forming a contract, and so cannot lawfully enter into the marriage relation. There must be neither force nor fraud practised: if there is, the courts may annul the marriage; free consent is necessary in both parties. To contract a marriage there must be no near blood relationship between the parties; cousins may intermarry if they will, but nearer relatives are prohibited from it. The husband is bound to support the wife, and must pay all the bills that she contracts for necessaries, or for such articles as are suitable to their station in life; and even if they are separated, he is often so bound, unless he allows her a suitable sum for her support. Under the common law the prop-

erty of the wife was all subject to the control of the husband. But now, through laws passed by some states, she is enabled to hold, lease, or sell, or make any disposition of it she pleases, nearly the same as if unmarried. The wife may even engage in trade and transact business upon her separate account, and may enter into partnership with other persons, becoming liable for debts as far as her separate property is concerned.

Through the relation of marriage comes the family, and the outgrowth of the family is social and civil organization — the state. Anything that tends to weaken or undermine the sacredness of the obligations of this relation, threatens the foundations of society and the permanence of the powers of the state that conserve and uphold the things that make for peace, purity, and prosperity. The institution of marriage is of divine origin, and the reason for it is found in the constitution of human nature.

Parents and Children. — Under the common law parents were not bound to support their children. But this has generally been superseded by special enactments requiring the support and education of the offspring of marriage, according to the parents' condition in life. Many of the states also have enacted laws forbidding the employment of children in factories, or hiring them out to manual labor under a certain age, or unless they have attended some school a required number of weeks or months in the year. It is the duty of the parent not only to provide their children with suitable food and clothing and education, but also to see that they have proper moral and religious training. Although this is not a legal duty, yet it is one of the highest moral duties that the parent owes to the state.

The rights and duties of parent and child are reciprocal: it is the right and duty of the parent to exercise authority over the child and to properly and kindly restrain and correct him; filial obedience and affection are the duties of the child. As it is the duty of the parent to care for and protect the child in helpless infancy and inexperienced youth, so in old age the parent has the right to receive from the child whatever aid, guidance, and affectionate support he may need.

Taxes. — As the government, whether town, city, state, or national, needs a revenue, it follows that it must have some means of raising money to pay its officers who attend to the different departments of its business, and enforce its laws. This it does by means of taxes.

The state lays taxes for its support, and apportions them equitably among the cities and towns of which it is composed; the county does the same, the city or towns usually providing the machinery by which the taxes are collected.

Taxes are of two kinds, real and personal; and a few states have still a third kind of tax, called a poll tax, which is imposed upon every voter, and is a requisite qualification for the exercise of the right of suffrage.

Real taxes are laid upon houses, lands, mills, factories, etc., while personal taxes are laid upon stocks, plate, money, stock-in-trade, furniture, horses, cattle, etc.

Most property is subject to taxation except the tools and utensils of the mechanic or laborer, public buildings, and such buildings as are devoted to religious and charitable purposes, and the necessary lands for their use.

The valuation of property for the purpose of taxation is ascertained by a board called assessors. The state and county taxes are apportioned to the towns and cities ac-

cording to the values thus found. If owners of property refuse the payment of taxes, it may be seized and sold, but generally with the right of redemption.

Another kind of tax is often laid in cities and villages, called an assessment. This occurs where certain property only, or the residents of some streets, by the introduction of improved sewers, laying of new pavements, or opening of new streets, and sometimes by the laying out of parks, are benefited. It would be obviously unfair to tax the whole community for what specially benefits individuals.

For what purpose, then, are these taxes collected, and by what right does the government annually take a small portion of each person's property? The right may be said to grow out of the necessity for the maintenance of an orderly condition of society. Schools must be supported, highways and bridges must be built and repaired; legislative bodies must meet to enact laws, and executive officers must see to their execution. The courts must be open for the relief of wrongs and the punishment of the vicious; the militia must be enrolled, armed, and trained; reformatories, jails, and prisons must be built and maintained for the restraint of criminals; and alms-houses, asylums, and hospitals opened for the unfortunate, the incapable, and the poor.

Juries. — These are of two kinds, grand and petit; the latter is a trial jury, and the former is sometimes called the "grand inquest of the county." The grand jury is charged with the investigation of such crimes and misdemeanors as may be brought to its notice by the district attorney; and where probable cause exists to believe a person guilty of a crime, "a true bill" is found if twelve of them agree that he ought to be brought to trial. Likewise,

the grand jury is often charged by the presiding judge to investigate public abuses and disorder, and make presentment of their findings. Also they may of their own motion visit jails, hospitals, asylums, or other public buildings in their jurisdiction, to ascertain from personal inspection if the laws and rules for their government are observed, and the welfare and order of the inmates properly cared for.

The petit or trial jury must be composed of twelve citizens twenty-one years of age, and they must be of an unbiased judgment in regard to any case that is brought before them. They are sworn to try each case impartially, and render a verdict in accordance with the facts as they shall ascertain them, and of which they are the sole judges. The law applicable to the case is laid down to them in a charge by the judge. The jury must be all agreed upon their verdict; or, if they cannot agree, they may be discharged and another jury summoned to try the case.

Most citizens are liable to jury duty, but some are exempt; as public officials, ministers, lawyers, doctors, teachers, locomotive engineers, and many others whose enforced absence from their usual duties might cause no little public inconvenience.

The right of trial by "a jury of one's peers" is reckoned as a precious heritage of the Anglo-Saxon race. It existed before Magna Charta (1215), and although for a long period subsequently, jurymen were intimidated often, and sometimes punished for rendering a verdict contrary to the wishes of the sovereign, yet the people have held to the right with an indomitable will, until it was freed of these abuses and became what it is to-day.

Militia. — By laws of most if not all of the states, able-bodied citizens between the ages of eighteen and forty-five are enrolled, and are liable to be summoned for duty as state troops. The executive, judicial, and legislative officers of the state government, and some others, as clergymen, physicians, and firemen, are exempted from this enrollment. The governor of the state is the commander-in-chief of the military forces of the state, but when called into active service, they cannot be sent out of the state without their own consent.

While in fact the militia consists of this enrolled body of citizens, in practice, and as commonly known, the state troops are composed of a volunteer body of citizens who organize themselves under the laws of the state, choosing their own company officers by a popular vote, who in turn choose regimental, brigade, and division officers, who are appointed and commissioned by the governor.

In many states they are furnished by the state with arms, equipments, and armories, and generally everywhere they are aided more or less by the state in the expenses of their organization.

The company officers are a captain and first and second lieutenants; the officers of a regiment are a colonel, lieutenant-colonel, major, adjutant, and chaplain; there are brigade and division commanders, with the rank of brigadier and major-general respectively. The governor of a state can summon the whole or any part of these organized bodies to duty in a time of insurrection or rebellion, or when the resistance to the ordinary peace officers of a county is too formidable for them to overcome.

In the late war, 1861–65, the most of the troops engaged consisted of volunteers raised in the several states, and

afterward mustered into the service of the country, the militia or some part of it most frequently furnishing the nucleus of the organization. As a training school and a rallying point in time of need, as well as for its conservative force, it is of great value. In several states, as in New York and Pennsylvania, this organization is called the National Guard. Sometimes an order to a portion of this force to assemble under arms has the effect of repressing disturbance, quelling turbulent spirits, and averting riot and bloodshed.

Prisons, Asylums, etc. — The states generally provide prisons or penitentiaries for criminals, and asylums for their unfortunate citizens, who, being bereft of their natural protectors, and being incapable of self-support through lunacy, idiocy, or bodily weakness, become a charge upon the state. This is considered a proper object for which a tax may be laid upon the whole people, except so far as, under the direction of their overseers and guardians in these public institutions, they may do something to contribute to their own support. Whatever states do or fail to do to ameliorate the condition of the blind, the crippled, the mentally unsound, the orphans, and other unfortunates, is evidence of their advance in civilization. Towns, cities, and counties also often have such institutions. The inmates of state prisons, being able-bodied persons generally, these may be made self-supporting usually, and no charge upon the public for their maintenance. Cities and counties have jails and lock-ups for a lower grade of criminals, and for the detention of those charged with crime who are waiting trial.

Criminals. — Warrants for the arrest of a person charged with crime may be obtained from a magistrate having

jurisdiction, unless the act be witnessed by an officer of the law, in which case no warrant is necessary. For all the lower grades of offenses the penalty may be awarded by the magistrate without the formality of a trial by jury. The procedure in case of more serious offenses is more deliberate and formal. Usually there is an examination before the nearest sitting magistrate, although that may be waived by the accused, and he be committed without it, to await the action of the grand jury. If an examination is had, and there is probable cause to believe the accused guilty, he is committed, and the evidence is laid before the grand jury at its next session; all the evidence which they look into is that against the accused; and if twelve of this body think there is reason to believe him guilty, a "true bill" is found, and he must be tried in a court having jurisdiction of such cases.

The presumption of innocence is the theory of the law, until the guilt is established to the satisfaction of a jury of twelve men. But still the law holds the accused in custody while he is waiting trial, unless the offense be bailable. Bail will generally be taken in case of most crimes against the person, short of murder, or attempts to commit murder; and in crimes against property, unless an immense sum is involved. The prisoner is generally entitled to counsel, and if through poverty he has not the means to hire a lawyer to defend his case, one may be assigned him by the court. He is entitled to know explicitly with what he is charged, to have time to prepare for trial, and to have the authority of the court for summoning and compelling the attendance of his witnesses.

The law also secures for him a trial before an impartial and unbiased jury. If they acquit him, he is discharged,

but if they convict him, he is either sentenced at once by the court, or remanded to await sentence at a future day. In any grave crimes he may, after conviction, have his case argued upon points of law before a full bench, and if their decision is against him, he may even carry his case to the court of highest jurisdiction in the state. The law allows the court large discretion in awarding penalties; they may be by both fine and imprisonment, or either one, as the court decides. And the law, too, names a larger and a smaller sum for the fine, and a longer and a shorter term for the imprisonment, which shall be fixed by the court as it considers the offence to be aggravated, or to have some mitigating circumstances.

A person restrained of his liberty unlawfully, as he thinks, may sue out a writ of *habeas corpus* and be brought before a court having jurisdiction and demand that good and sufficient cause should then be shown why he should not be set at liberty; if it be shown that he is lawfully held, he will be returned to custody; otherwise, he will be discharged. While it is of great importance that the executive officers should be able to arrest and hold upon probable evidence all offenders, yet this writ of *habeas corpus* is equally necessary for the security of the citizen. It can be suspended only at critical times, and for the gravest causes.

Punishment for crime is a means to an end; the end being the good order and welfare of the body politic; it is not so much for its effect upon the criminal, as for its deterrent effect upon other possible criminals. The penalty does not expiate the crime, but its infliction tends to the protection of the community against its further commission. A great body of people probably live out their

lives without having seen a court of law; they are not parties to a suit, and are summoned neither as witnesses nor jurymen. Yet are not these people benefited by the courts? this class of people perhaps derives greater advantages from them than any other. The peace and security which they feel and enjoy, are maintained by forces which they do not see, but which are none the less efficient in securing order and dispensing justice.

A Will is a legal declaration of a person's wishes respecting the disposal of his property after death. Any person of sound mind and proper age can make a will; but in some states a married woman cannot, except it be relative to trust funds she holds. Competent persons, not benefited by its provisions, must witness the signature of the will; in some states three are required, in others only two. The maker of a will is a testator; the person appointed to carry out its provisions is an executor or administrator. After the death of the testator, his will is presented to the probate judge, who directs that notice be given, by public advertisement, of the probate of the will. If there is no opposition, the will is "proven." The executor, who must usually give bonds for the faithful performance of his trust, proportioned to the value of the estate, gives notice to all parties having claims against it to present them to him, and to all owing it, that payment must be made to him.

Usually two years is allowed for the proving and settlement of claims. The executor must report all his proceedings to the judge once a year, or oftener, as he may direct. A testator desiring to favor some of his children more than others, or wishing to disinherit any, must be certain to mention these persons by name, else it might be held that they were forgotten or overlooked, and its provisions con-

tested upon that ground. But courts usually uphold the wishes of the deceased where they can be clearly ascertained.

If a person dies without making a will, he is legally described as intestate; and a person called an administrator is appointed by the court to settle the estate, dividing the property, after the payment of the debts, among the next of kin, according to law.

Informal wills made upon a battle-field, or by one in momentary expectation of death by drowning at sea, or otherwise, have been allowed and held valid by the courts.

Guardians for minor children are appointed by the court where none are named by the testator. Gifts and bequests are usually upheld, even though they may seem to work hardship to the lawful heirs.

Contracts. — A contract is an agreement voluntarily made between two or more persons of sound mind, to do, or not to do, a certain thing. It may be made orally, or committed to writing; but the essential part is, that it is founded upon the mutual understanding and agreement of the parties.

Some persons are naturally incapacitated to make a contract, such as idiots, lunatics, drunkards, and any other persons who by reason of age or infirmity are incapable of rightly managing their affairs. An idiot is mentally deficient, and incapable of acting for himself. A lunatic might have a lucid interval when, if not under guardianship, he could make a contract. But if disputed, the burden of proof would be upon the party sustaining its validity. So a drunkard may have sober intervals when he may make a contract, the necessary part being the capacity to give a voluntary and deliberate consent.

All persons under twenty-one years of age, and married women in respect to some contracts, are legally incapacitated to make a valid contract. If induced to make one, it may be repudiated unless confirmed by the parent or guardian, or confirmed by the person after coming of age, or after the disability is removed. There is an apparent exception to this in respect to debts that might be incurred for food and clothing, and necessary education.

In general, the legality of a contract will be presumed, and to avoid it the contrary must be shown. But a contract such as would violate the general principles of morality and justice, or would be a violation of law, or repugnant to public policy, would be illegal.

A contract must be for a *good* or a *valuable* consideration. A good consideration is one that would warrant a gift of property, such as natural affection and blood relationship. A valuable consideration is one that the parties themselves esteem sufficient to induce them to undertake to perform the service, or assume the relations agreed upon.

It is a general rule in the construction of contracts, that they will be so construed as best to give effect to the intention of the parties to them. Also that the law of the place where made, is binding in the construction. An agreement to do any certain thing must be reduced to writing and signed by the parties, if the time of the performance is more than a year from the time of the agreement. The only exception to this is a mutual agreement to marry.

Fraud will invalidate any contract; it is required that there shall be good faith in every person negotiating one, and that he will not be a party to, or permit, any deception or misrepresentation as an inducement to enter into one.

No essential fact can lawfully be concealed, or defect covered up, without rendering it as voidable as if wilful misrepresentation had been made. So a contract made under a threat or coercion, is voidable; it must be the free and voluntary act of the person, or it cannot be maintained.

A Contract for services to be performed may be either oral or written, except that if the term be for more than one year it must be in writing, in order to be binding. In all cases where there are any special agreements or conditions, it is desirable that they should be written out clearly, in order to prevent any future misunderstanding. When no time of payment for labor is specified in the agreement, it is held to be due only when the service is completely performed. And if one leaves without good cause before the labor is completed, he cannot recover for what he has done already. Even if he leaves for a day without cause, the employer is not bound to take him back, nor to pay him for services previously rendered. But if he were sick, or he should die, or if compelled to leave through the misconduct of the employer, then he is entitled to full pay for all the services rendered. If a minor makes a contract for services and receives pay for them, if they were reasonably worth more, he may recover the difference after coming of age.

In a contract to build a house, if the specifications are varied from at the request of the employer, the builder may recover a reasonable amount for cost of extra materials or labor. But if the builder does not follow specifications through design or negligence of his own, he cannot collect what the house, as built, may be reasonably worth. Yet the employer may make himself liable by occasionally inspecting the work and materials and expressing ap-

proval. If a contractor puts in better materials than he agreed, he cannot collect the difference in cost. A contract for services implies ordinary skill, and good faith in their performance. Generally no one can enforce a claim for services rendered to another party without his request. If a contract becomes impossible of performance, it is a rule that payment must be made in a reasonable sum and equitably for what has been done.

Partnership. — When two or more persons associate themselves together to prosecute some lawful business, and to share its profits and losses, they are called partners. This partnership may be limited to a single transaction, or it may involve an extended business lasting through a term of years. The contract by which the parties bind themselves may be either oral or written, but it is wise to have the whole agreement in writing, defining the nature of the business, the services each partner is to perform, the capital and share of the profit or loss, when it shall terminate, if limited in time, and what shall be done in the case of the death of either partner.

An essential feature of a partnership, is that profits and losses are shared in common. The same legal qualifications are required in the parties to a partnership as in those to any other kind of contract. A married woman may enter into partnership and become liable to the extent of her separate property. In a general partnership, as related to the public, all are jointly and individually liable for its debts; but as among themselves, they are liable according to the terms of their contract. A dormant partner, who has a secret interest in the business, if discovered, is liable for its debts, as is also a nominal partner, who has no interest, but who lends his name for the

purpose of giving it credit. A partner is not entitled to pay for his services beyond his share of the profits, unless the agreement provides for it. Neither can a partner dispose of his interest to a third person and constitute him a partner in the business.

When the time of continuance of a partnership is not named in the contract, it is said to be *at will.* And where it is at will, it may be dissolved at any time by either partner, but he will be liable to all the others for damages. Generally a partnership at will is dissolved by the violation of the agreement by a partner, or his bankruptcy, sale of interest, felony, or death. All special agreements among partners are good as among themselves, but not as against third parties, unless specially brought to their notice.

Each partner is an agent for all the others to transact any and all of its business, but he has no right to use the firm name in his individual business, nor to use funds of the firm for his own benefit. Each partner is bound to exercise the utmost good faith toward the others, giving all information respecting the common interest, and zealously co-operating to promote all the interests of the partnership. If a partnership is dissolved by a partner's death, the legal title vests in the survivors, and they must account to the representatives of the deceased for his share; as long as they do this with fidelity, his heirs cannot interfere in the adjustment of the partnership accounts and arrangement of the business. If there is not property enough to pay its debts, his private property may be taken for that purpose; but sufficient must first be applied to extinguish his individual indebtedness.

A *limited partnership* differs from a general partnership

in that public notice must be given, proven, and recorded in the same manner as a conveyance of real estate, and also published in the newspapers of the locality of the business. The certificate, signed by each one, must set forth the name of the firm, the nature of the business it is to transact, who are general and who are special partners, with their residences, the amount of capital each one contributes, and the period for which it is formed. These partners are not liable beyond the amounts they agree to contribute. A special partner may die or dispose of his interest without working the dissolution of the firm. Such partnership cannot be dissolved before the time specified in the certificate without giving equally public notice, and taking legal steps similar to those necessary at its formation.

A joint stock company is virtually a limited partnership, as described in the last paragraph, having officers such as president, secretary, and treasurer, for its own convenience in the transaction of business. Suits at law may be instituted by and against them in the name of one of their officers.

Mortgages. — A mortgage is a conveyance of property upon condition, as security for the payment of a debt. Generally the mortgagor is considered the real owner of the property, subject only to the lien upon it for the payment of the debt, or performance of other condition. If the mortgagor defaults, the mortgagee may compel him to perform the condition named in the deed, or he may obtain judgment, and have the premises sold upon execution to satisfy the condition. A mortgage must be as formal as a deed making an absolute conveyance of property. It must be subscribed, witnessed, and recorded in the same way, in

order to insure its validity. An unrecorded mortgage is valueless as against an innocent purchaser of the same property. Also the wife of the mortgagor must join in the conveyance, or she will retain her right of dower in the premises after his death.

In the mortgage of personal property it is usual also for the mortgagor to retain its possession until he makes default of payment, or other condition which entitles the mortgagee to enforce his rights. Authorities state that the mortgagee has a right to the custody of the property mortgaged, but in practise the mortgagor usually retains it. If the property so mortgaged be levied on for other debts of the mortgagor, it can be sold only subject to the rights of the mortgagee. As in the case of real estate, the mortgage must be recorded, or it will not hold the sale of the property as against the title of an innocent purchaser. If a mortgagor fails to meet the conditions of the mortgage, and at the same time refuses to yield the possession to the mortgagee, to which his deed entitles him, then the mortgagee may recover the property the same as he would any other, the rightful possession of which was withheld from him.

Liens. — A lien is a right that one may have to hold the property of another as security for the payment of a debt, or the discharge of some obligation. One who furnishes materials for a building, or for the manufacture of an article, has a lien upon it for the payment of their value, and the mechanic employed in erecting a building, or making some article, has a lien upon it for the payment of the value of his services. The keeper of a hotel or a boarding-house has a lien upon the baggage of a guest for his charges for entertainment. A carrier may retain posses-

sion of goods to secure payment of his charges, and where one furnishes material to a mechanic for the manufacture of an article, the mechanic has a lien upon it for the payment of his labor; and so too where one has left property to be repaired. An agent or tradesman who has advanced money for freight or labor upon goods of another in his hands, has a lien upon them as security for payment of these advances.

Leases for a period not exceeding one year will be held valid, even if not in writing, although it is prudent to have the conditions of the lease reduced to writing and properly witnessed. A lease may contain any provisions in regard to amount of rent and time of payment, and conditions concerning use of the premises, and about repairs and alterations, to which the parties agree. If the landlord agrees to make repairs and does not do it, the tenant may, after due notice, make them himself and collect the cost from him. At common law if a leased building be burned up, or become so injured as to be untenantable, the rent will not cease, unless the contract provides differently. The tenant is entitled to a reasonable use of the premises without any interference from the landlord. If the lessor should do anything to preclude their beneficial use by the tenant, he may vacate the premises and refuse further payment of rent. On the other hand, should the tenant create a nuisance upon the premises, or injure them beyond the ordinary wear, or refuse to pay the rent, the lessor may eject him and recover possession.

Generally a lease will contain some provision as to whether the tenant may sublet a part of the premises, or dispose of his whole lease at his pleasure during the term

of the tenancy. Also, if it be in the city, it will provide who shall pay the water rates. The rights of a tenant are not affected by a sale of the property during his term of occupancy, the purchaser being bound by the contract of the seller. If the lease is of land, it will provide who shall have any crops that may be standing at its expiration; in absence of such provision they will belong to the lessor, unless the time should be uncertain, when they would belong to the lessee.

It is the duty of the tenant to vacate the premises at once on the expiration of his lease, and no notice to quit is necessary; if he does not go, the landlord may resort to legal process to eject him. Where he is a tenant at will, a notice to quit is necessary; usually a month's notice is sufficient, but in some cases as long a time may be required as the intervals agreed upon for the payment of rent.

Sales. — Sale of real estate must be by deed under seal; it is prudent to have subscribing witnesses. This deed or conveyance must describe accurately the premises sold or conveyed, and name the consideration for the transfer.

Deeds generally are of two kinds, Quitclaim and Warranty; the former is often given where a person has only a partial interest in an estate or piece of property, and this deed conveys to the grantee whatever right, title, and interest is possessed by the grantor. A deed with warranty covenants with the buyer that the seller has a good title to the property, and an indisputable right to sell, convey, and guarantee peaceable possession of the same to the buyer and his heirs forever. This deed must be properly recorded in the office of the county clerk, or whatever officer attends to the registry of such instruments.

Sales of personal property are generally by oral contract

only, and the title passes from the seller to the buyer upon agreement to terms of sale, and if the property is left in the custody of the seller, it is at the risk of the buyer. Yet if anything remains to be done by the seller to complete the transaction, it is still at his risk for loss or damage. The delivery is an act in which both parties concur and by which the property comes into the actual power of the buyer. Unless the terms of sale provide for future payment, the seller may retain possession until the price is received.

This involves the right of stoppage of goods while yet on the way from the seller to the buyer, if not wholly paid for, and the seller learns that the buyer is insolvent before they actually come into his possession. If no place of delivery of goods is named, it is generally understood that they are delivered at the place where they then are. If one kind of goods is ordered and another is sent, they are at the risk of the seller, and the party ordering is not bound unless he accepts them.

Most of the states have enacted a law designed to prevent fraudulent sales, whereby a creditor of the seller might be defrauded. This law provides that a contract for a sale shall be void where the property in question is fifty dollars or more, unless a memorandum of the contract be made in writing and signed by the parties to it; or unless the buyer receives a part of the goods; or unless he pays down at the time a part of the purchase money.

The law presumes that the property is owned by the party in possession, and that a *bona fide* sale involves a transfer; this presumption may be overcome by sufficient evidence that the statute has been complied with.

In connection with a sale of personal property, a war-

ranty as to quality, quantity, and condition, is sometimes made in writing. But where no express warranty is given, one is implied. It is implied that the seller has a good title which he transfers to the buyer: if it is an article of food, that it is sound and wholesome; if it is something to be manufactured, that it shall be of good quality; and if it be an article of common purchase by the buyer, there is a warranty implied that nothing of an inferior quality will be delivered.

Receipts. — A receipt is a writing given in acknowledgment of the delivery of money or goods, and usually stating for what purpose. "A receipt in full" does not debar the giver of it showing subsequently that it was not in full, and collecting the balance.

A release differs from a receipt in that it is in the nature of a contract, and must be for a consideration which should be expressed in it. Releases of claims against real estate are often practically in the nature of conveyances. One partner may give a valid release of a debt due a firm, and where there are several executors or administrators, a release of a claim by one binds all.

Notes. — A promissory note is a writing signed by the maker, by which he agrees to pay another person, called the payee, a certain sum of money. The words "for value received" are usually inserted, and although they may not be necessary, yet in all cases they are advisable. In most of the states such notes are negotiable.

A note need not be in any particular form; if it states in intelligible language the promise to pay a certain sum of money to some person, or to bearer, it will be sufficient.

Notes may be indorsed in blank or to some person. The holder of a note that has been dishonored may hold all

the parties to it liable, or he may hold some and not others; if he gives notice to all the parties, each one will be bound. If the residence of an indorser or the maker are unknown, diligent inquiry should be made, and notice sent as near as can be ascertained to his last known or probable place of residence, and that will be sufficient to hold either party. But if subsequently his real place of residence or business become known, another notice must be sent there in order to hold him.

If a note is lost, public notice of the fact should be given, so that innocent parties may not negotiate it, and the maker should also be informed by the holder; but if he cannot produce it at maturity, and the maker refuses payment, his only remedy is a resort to a court of equity.

Interest. — This is money paid for the use of money, or the forbearance to collect a debt when due. The rates of lawful interest in the several states vary considerably. Six per centum is the most common sum, and that is also the lawful rate for the nation. The highest legal rate known in any state is twelve per centum. In some states by special agreement any rate is lawful; while in others the exaction of more than the lawful rate, which is called usury, may be visited by severe penalties.

Agency. — An agent is a person authorized to act for another, called his principal, in dealings with third parties: he may be employed to perform a single act, in which case he would be a special agent; but when he is employed by his principal generally in the conduct of his business, he becomes a general agent. The authority of the agent to act is more usually implied by the conduct of the principal than expressed by an instrument in writing; a teller in a bank, a clerk in a store, a superintendent at a factory,

and others, are assumed from their positions to act with the full knowledge and consent of their principals.

Generally a principal is liable for all the acts of his agent that are done within the scope of that agency, but for nothing outside or beyond that, unless he may hereafter approve and adopt such acts. It is the duty of the agent diligently to follow his instructions, whatever his own judgment may be. Honesty, fidelity, and ordinary skill, are expected of him. Where he has no instructions, he must conform to the usages of the trade. For actions within his instructions the agent is not liable to third parties, but his principal is responsible. The power conferred upon him by the principal must be used for his benefit and not for the agent's.

Insurance. — A contract by which one party undertakes to indemnify another in the case of certain losses is called insurance. This contract is usually in writing, and is called a policy. The principal kinds of insurance are fire, life, and marine. The policy should specify the subject of insurance and the dangers against which it is issued; all the conditions must be named in it. If there is not perfect accord in meaning of the written with the printed part, the written will be held to express the intent of the parties.

If the insured makes an oral agreement with the company issuing his policy that he will continue it from year to year, it is valid, but the premium could not be increased without notice. A policy is binding upon the insurer as soon as the verbal agreement is made and premium received, even if the policy has not been issued, and the subject of it has been lost in the interval. The insured must own, or have an interest in the property insured, but

one who has no specific interest in it cannot insure it, even though he may have a claim against the owner in respect to it. But mortgagees have an insurable interest in property upon which they have advanced money.

The business of insurance is generally conducted by corporations specially chartered for this purpose under the laws of the several states; agents for foreign companies may also take risks under such safeguards as the laws of the state deem sufficient to protect the rights of its citizens. The applicant for insurance is to act in good faith with the insurer, to make no false representations, and to conceal no fact that may be material to its subject. Either an untrue statement, or the hiding of essential facts, will vitiate the policy. The conditions of a policy must be observed; if it is stipulated that no intoxicating liquors, for example, should be kept on the premises, the violation of this condition might impair the right of the insured to recover in case of loss. A policy generally requires the insured to give notice of loss to the insurer at once, and to furnish evidence of the same, if required, within a reasonable time.

Marine insurance covers losses of vessels with their cargoes, whether by fire, shipwreck, or a public enemy. The insured undertakes and warrants that his vessel is seaworthy and well equipped with all necessary materials and the requisite crew, and that he is to engage in no illegal traffic. Marine insurance companies will generally issue blank policies to merchants, which will cover all property they may be advised of being shipped by the insured from time to time. As goods are shipped, the company is advised, and a memorandum of the same added to the policy, which completes the contract. The blank policy is the

same as the usual one, except in leaving blank the name of the vessel, the ports to and from which she sails, and the premium.

The purpose of life insurance is to provide a fund to be paid at the death of the insured to his family or legal representatives. The most usual form of a policy is for the term of the natural life of the insured, but it may be for a single year or for a term of years. One may assign a policy upon his own life, and it will be perfectly good in the hands of the assignee, even though he could not of himself have procured a policy upon the person's life, through lack of an insurable interest. A policy obtained upon the life of another, in which the insurer has no pecuniary interest, is void. A creditor has an insurable interest in the life of a debtor, and the wife in her husband's life.

To the validity of a policy upon a life, it is essential that the insured shall have made no false representations, and concealed nothing in regard to bodily health, personal habits, or past history. Usually life policies contain some restrictions upon travel in general, or at certain seasons, and also in regard to change of latitude of residence. As fraud vitiates all contracts, so especially is this the case in all kinds of insurance. Good faith and upright dealing are indispensable.

Railroads. — As railroads have been adjudged to be common carriers, they enjoy all their privileges, and are subject to their duties. A carrier must exercise due care and ordinary diligence in the transportation of persons and property, and he is responsible for loss incurred by his neglect or failure to use them. He is held to the same degree of faithfulness that a careful man would naturally have in the transaction of his own business, and in the

case of injury or loss he will have to rebut the presumption that he is responsible. He must receive all goods and passengers offered, and carry them to their destination as soon as practicable. He cannot discriminate among persons, taking some and refusing others, nor between shippers, or among goods, except that he may decline such as are dangerous and are offered at an unseasonable time. And he is responsible for the delivery of goods in good order at their destination in due time, unless prevented "by the act of God or of the public enemy."

It is one of the risks that the carrier assumes, that all his servants will be faithful and honest, and he cannot escape responsibility through or for their dereliction; if they are dishonest, he must make good losses incurred in that way; if they are neglectful, he may suffer in damages; and if they "strike," it is no excuse for the non-fulfilment of his contracts, and his general obligations as a common carrier. All these things he must consider when he assumes the duties of a carrier. Also, if he contracts to deliver goods at a certain place on or before a day named, an unavoidable accident will not relieve him of responsibility. It is generally held that a railroad in selling a ticket to a passenger, contracts with him, and warrants that the road is in good travelling order; that all its vehicles and locomotives are safe and well equipped; and all its servants diligent, faithful, and competent. If there is any failure in these respects, the road will be responsible for loss or injury to persons or property.

All express companies, transportation companies, baggage expressmen, and forwarders generally, come under the rules applicable to railroads and common carriers generally. So, too, telegraph companies in many respects are

held to the laws governing the relations of common carriers to the public; they must exercise ordinary care and diligence, and are answerable for neglect or omission of duty on the part of their agents. They are also under the additional obligation of secrecy; the contents of a message must not be divulged to any but its rightful owner. The violation of this rule has been held to be a misdemeanor punishable by fine and imprisonment.

It is an essential of a telegraphic message, that the identical words of the sender shall be handed promptly to the receiver; a company is generally liable for any loss or damage accruing through the mistake or neglect of its agents.

Canals. — A canal is an artificial waterway specially constructed for the passage of vessels. Since the introduction of steam and its application as a motive power for land carriage, the use and construction of canals have diminished. Before that time, and for some years later, they were used for transportation of both freight and passengers, but now they are used for freight only; they generally carry such freight as either there is but little haste in the delivery of, or such as is of so bulky a nature as to add too greatly to its cost of transportation by railroad. The state of New York has always fostered her canals, and to them she owes much of her commercial greatness and prosperity. Recently, by a popular vote in that state, all tolls upon the canals were abolished, and the cost of their maintenance became a public charge.

CIVIL POLITY.

DERIVE the definition of Civil Polity by first defining a *Civil State.*

1. Civil State. — A civil state is a community of persons living within well-defined limits of territory, and acting together under a permanent organization controlled by self-imposed rules for the accomplishment of some common end.

2. Civil Government. — A *governing power* is that which has authority to make rules of human conduct and to apply them in directing and controlling it. *Governing* consists in making and applying the rules. *Government*, then, must be the rules thus made, and their application. And *Civil Government* is the rules made for controlling civil conduct, and their application to the citizens of a state.

3. Principles of Civil Government. — A *right* is a *permission* to be, to do, or to possess something. Such a permission granted to man by the Creator becomes a *natural right.* If the permission be granted by one man to another, it becomes an acquired right. The objects of natural rights are life, liberty, reputation, property, truth, etc. The end to be secured by the possession of the objects of natural rights is our well-being. Man acting alone is unable to secure for himself the objects of his rights. He needs protection.

Man living alone, would not be furnished with the right occasions for his proper development. He needs the right occasions and means of development. The existence of civil society is necessary for the right development of the social faculties and capacities of man, and it may be shown that civil government is necessary for the existence of civil society.

In the existence of natural rights and in the need of the means of protection and development are found the principles upon which civil government is founded.

4. Forms of Civil Government. — That department of the governing power which enacts the laws is called the *Legislature.*

The department that interprets the laws made is called the *Judiciary.*

The department that executes the laws is the *Executive.*

If the legislative, judicial, and executive powers are all exercised by one person, a form of government will exist called a *Monarchy*, or Autocracy.

If they are exercised by a few chosen persons, the government will be an *Aristocracy.*

If they are exercised by the people themselves, it will be called a *Democracy.*

The principles of civil government have been illustrated, and the forms of civil government stated, and we are now ready to make an intelligent definition of Civil Polity.

Civil Polity is a knowledge of the principles and forms of civil government.

Ends to be Secured. — A government has accomplished the ends for which it was established, if it protects the citizens in the enjoyment of the objects of their natural

rights and furnishes them the free opportunity of developing themselves and their resources.

That form of government will be the best, which is best adapted to accomplish these two ends.

Government of the United States.

As the different functions of the government of the United States are exercised theoretically by the people, the form is that of a Democracy. As practically the functions are performed by representatives chosen by the people, the form is that of a Representative Democracy. As the representatives are limited in their action by a constitution, the government of the United States is a Constitutional Representative Democracy.

A study of the principles of our government and of its forms may be carried on together. A knowledge of one will throw light upon the other.

CHAPTER I.

DIVISION OF POWERS.

THE student may have learned, in the study of the state governments, that the powers of a government are necessarily divided into three groups, or departments. The duties to be performed in each department differ from those in the others. Experience, in governments that approach a representative character, has shown that the three departments must be kept distinct. Even in countries ruled by absolute monarchs, there must be some delegation of powers and authority to inferior officers, and in such delegation there is a division of powers approaching that named above. To one set of officers is delegated foreign affairs; to another set is delegated affairs of finance; to another, matters of war; to another, judicial duties; and so of other matters. In limited monarchies, a legislative branch is established, by the action of which the ruler receives the advice of a class of his subjects in the enactment of laws, and the judicial branch relieves him of the burden of deciding law-suits of small moment. At the same time, the ruler reserves to himself the reversal of the action of all his subjects, whether of legislation or of judgment. The nearer a government approach the democratic form and character, the clearer is the line drawn between the three departments. The distinction is more marked in the United States than in any other government. Here, the administration of the government

is divided into the Legislative, Executive, and Judicial Departments. Each department has a different set of officers, and in but few instances do the duties or responsibilities of any set of officers include the duties or responsibilities of any other set. The President and Vice-President each have duties connected with legislation. The House of Representatives, in cases of impeachment, has duties in the prosecution of offenders; and the Senate, in the same cases, exercises judicial functions. The details of these matters will be treated more fully hereafter.

The Legislative Department. — This is the department that makes the laws. The word "legislative" means "law-bringing," or "law-bearing." The idea is that, as this department represents the people more completely than either of the other departments, and as the people are the source of all authority, — the will of the people being law in a republic, as the will of the emperor is law in the empire, — the enactment of laws is simply the formal act of expressing the will of the people, the putting of that will into words. In this sense, the legislature, or Congress, brings the law from the people and puts it into the form of statutes. "Law" and "statute" are but other names for those rules and regulations necessary for holding the people together in society and government, and for securing to them their rights. In a more general sense, the legislative department determines what rules are best for the people, what regulations are wisest, and how and by what officers these rules and regulations shall be enforced. The constitution provides the officers by whom the general affairs of the nation shall be administered, but it has wisely left to Congress the duty of pro-

viding such officers as are needed in the smaller concerns of government. In addition to the duty to make the laws, the Congress of the nation has been given authority to keep watch over all the officers of the government, of whatever department, and it may remove any of them from office for official misconduct. In the states, this department appears to be the most important one, but it is not so in the national government.

The Executive Department. — This department administers the general laws made by Congress. It also may enforce laws if necessary by the use of the army and navy. This is a more important department of the government than it is in a state. In most of the states, each officer of the executive department is separately elected by the people, his duties are separately defined by statute, he acts upon his own responsibility, and is responsible to no one but the laws and the people. In the general government, the whole executive department acts together under one officer who appoints, directs, controls, or dismisses each of them and all of them in the general work of their offices. All act under one plan. The President appoints, directly or indirectly, all the officers of this department, even to the lowest, and all are responsible to him for their actions. As the interests of the nation are greater than those of a state, the laws of the nation require greater elasticity than do those of a state, and the President and his officers have more discretion allowed to them than is allowed to such an officer in a state.

The Judicial Department. — This department of the government interprets the laws and the constitution, and even decides upon the constitutionality of laws, and the legality of the action of other officers, and applies the law

to individual actions. As different persons disagree as to the meaning of the words of the constitution, of the laws, and of contracts, and as these disagreements lead to trouble unless some one has the right to settle them, to this department is given the authority to settle all such disagreements. The decision of the courts is as much the law as an act of Congress can be, and must be obeyed as such.

CHAPTER II.

THE LEGISLATIVE DEPARTMENT.

THE powers and duties of this department of the government have been generally stated in the preceding chapter. It remains for us now to consider its organization, the methods by which it exerts its power, the authority given to it, and the limitations placed upon that authority, by the constitution. The name given to this department is the Congress.

DIAGRAM OF THE LEGISLATIVE DEPARTMENT.

Legislative Department.
- THE SENATE.
  - President, *pro tempore.*
  - Secretaries.
  - Sergeant-at-arms and other officers.
  - Committees.
- THE HOUSE OF REPRESENTATIVES.
  - Speaker.
  - Clerks.
  - Sergeant-at-arms and other officers.
  - Committees.
- THE PRESIDENT.
- THE VICE-PRESIDENT.

As will be seen by the above diagram, the legislative branch of the government is composed of four parts, each of which has some duty in the enactment of laws.

1. THE SENATE.
2. THE HOUSE OF REPRESENTATIVES.
3. THE PRESIDENT.
4. THE VICE-PRESIDENT.

Members. — The Senate is composed of two members from each state. They are elected by the legislature to serve for a term of six years. They are so classified that the term of one-third of the members expires every two years. This secures a membership of two-thirds of the body who have served two years or more, and who are thus familiar with the methods of legislation. The House of Representatives is composed of members from the several states, elected by the people, in districts, one from each district, and each district containing about the same number of people. The members of the House serve two years.

Qualifications of Members. — To be a member of the Senate, a person must be thirty years of age, have been a citizen of the United States nine years, and be an inhabitant of the state for which he shall be chosen. A member of the House of Representatives must be twenty-five years old, have been a citizen of the United States seven years, and be an inhabitant of the state in which he shall be chosen.

No person can be a member of either house of Congress while holding any other office under the United States. No person can be a member of either house of Congress, who had previously held any office under the United States, or had held any general state office, and, as such officer, had taken an oath to support the constitution of the United States, and had there-after engaged in insurrection or rebellion against the United States, or had given aid or comfort to the enemies of the United States. This disability may be removed by a vote of two-thirds of both houses of Congress.

How Elected. — THE SENATE. The state legislature, at its last session before the expiration of the term of any

senator, elects his successor. Upon the second Tuesday after the organization of the legislature, each house separately votes for a senator. If a majority of each house is cast for the same person, he is declared duly elected. If no person is so elected upon the first vote, the two houses must meet together every day there-after and take one vote for senator: at such meeting the members of the two houses constitute one body, and a majority of the members of that body is necessary to elect.

The House. After each census, a number is fixed upon, by Congress, for the membership of the House. The whole number of people, as shown by the census, divided by that fixed number, will give the number of people required for one member. Each state is then assigned its number of members of the House, as shown by that division. In ascertaining the number of people, for this purpose, Indians not taxed are not counted, nor are the people living in the territories or in the District of Columbia, as they are not represented in Congress. After the number of members of the House is assigned to the states, the legislature of each state divides the state into as many districts as the number of members to which it is entitled. These districts must contain the same number of people, as nearly as possible. In each even-numbered year (1886, 1888, 1890, etc.) the members are elected by the people at the general election for state officers.

Privileges of Members. — Members of each house of Congress cannot be arrested while in attendance upon the sessions of their houses, nor while going to or returning from such sessions, for any offense except for treason, other felony, or for a breach of the peace. No member can be made liable, in any civil action, or in any criminal

proceeding, for anything that he may say in Congress. These provisions prevent any interference with a member of Congress in the discharge of his duty, enabling him to do his duty without fear. If a member could be arrested, while on duty, for a small and unimportant matter, the public might be deprived of his services, and often members who were obnoxious to any one might be so arrested upon false charges in order to prevent the exercise of their duty. Treason, other felony, and a breach of the peace are considered so serious that not even members of Congress are exempt from their penalties. If a member of Congress could be sued, in slander or libel, for words used by him in debate in Congress, or in the proper discharge of his duty, he might thereby be restrained from such fearlessness and independence as he ought to possess. It is better that he should be allowed to state what is not true, sometimes, than that he should ever be punished in any way for speaking the truth.

Sessions. — The regular annual session of Congress begins on the first Monday of December. This is the time fixed by the constitution, but Congress has the power to change the time, at its pleasure. The President is authorized to call special sessions of Congress, or of either house, whenever, in his judgment, the public interests demand it. The first regular session of each Congress continues so long as its members desire to remain in session — usually it adjourns in June or July. The second session closes, by constitutional limitation, March 4, at noon. Members hold office from March 4, to March 4, at noon, two years.

Organization. — At the time fixed for the opening of the first session of a Congress, the Vice-President calls the

members of the Senate to attention, and the Senate then elects its secretaries, sergeant-at-arms, door-keepers, and such other subordinate officers as it needs. If there is no Vice-President, the Senate elects a President, *pro tempore*, from its own members. Usually a caucus of the political party having a majority of the members is held, at which members are assigned to committees. This assignment is adopted by the Senate, and the organization is complete. The membership of the committees is usually made up of a fair proportion of the two parties represented in the Senate. In the House, the clerk of the last House calls the members to attention. Thereupon, the speaker, clerks, sergeant-at-arms, door-keepers, and other inferior officers are elected. The speaker always makes the assignment of the members to the committees. The committees are arranged, as they are in the Senate, a majority of the members being of the party that has a majority of the membership of the House.

Quorum. — A majority of the members elected to each house forms a quorum; that is, no business can be done by either house unless a majority of its members are present. In the absence of a quorum, the members present may compel the attendance of absent members, and may adjourn from day to day.

Duties of Officers. — The Vice-President and speaker are the presiding officers of their respective houses. Each sits at a desk in front of the members, and facing them. He is addressed by the members as they rise to speak, and no member can proceed until he has been recognized by the presiding officer. In case two members rise and address him at about the same instant, he decides which one is entitled to proceed. He also prevents disorder or con-

fusion in his house, keeps the members to the business before them, directs the subordinate officers in the discharge of their duties, appoints all committees whose manner of appointment is not otherwise provided for, and signs all bills that pass his house. In his temporary absence, each house has the right to elect a member to serve during such absence. Each house elects, also, an officer, whose duty it is to record all the proceedings of that house, and to keep the papers and other documents belonging to it, and these officers have such assistants as are needed. In the Senate, this officer is called a secretary, and, in the House, he is called a clerk. Each house, also, has a sergeant-at-arms, who acts under the direction of the presiding officer in the preservation of order, not only among the members, but also among visitors. A door-keeper has charge of each door leading into the house, in order that only those who have a right may enter. Janitors attend to the rooms to keep them in order, and pages, usually boys, act as messengers for the members and officers during the sessions. There are, also, official reporters of each house, who take down, in shorthand, the remarks of the speaker, and of other members. These reports are printed in full in the official paper, called the Congressional Record.

Rights of Each House. — Each house determines the election and qualification of its own members. All contests between persons claiming to have been elected to Congress are decided by the house to which they claim election. If any question arises concerning the qualification of a member of a house, it is decided by the house of which he is a member, or to which he claims to have been elected. Each house, also, may punish any member for

disorderly conduct, and it may expel a member, by a two-thirds vote of its members. It is not restricted to any cause for expulsion. It may, therefore, expel for any cause that would render the member an illegal, undesirable, or unworthy member.

Journal. — Each house keeps a record, by its secretary or clerk, of its proceedings, and the same is published daily in the Congressional Record. The Senate has a secret, or executive, session, in which it acts upon treaties, nomination of officers, and such other business as it desires to do in secret. The journal of these secret sessions is not published. The House is authorized by the constitution to hold secret sessions, but it does not do so.

CHAPTER III.

THE LEGISLATIVE DEPARTMENT. — Continued.

How Members Vote. — Upon ordinary occasions, the members may vote by word of mouth, by show of hands, or by rising, or by passing between tellers and being counted. Whenever one-fifth of those present demand a vote by "yeas and nays," the name of each member is called, and he votes "yea" or "nay," and the vote is recorded. By the other methods of voting, no record is kept showing how any member voted.

Rules. — We have seen that each house has authority to make rules. These rules direct the whole business of legislation. They state how the members shall conduct themselves, when bills and resolutions may be presented, what course they shall take in order to come to a vote, in what order of precedence motions shall be voted upon, as well as all the details of method and form in making laws. These rules are usually adopted at the beginning of each Congress, and may be changed at the pleasure of the house. The two houses, also, have rules concerning their relations to each other, and their joint action in the passage of bills.

Committees. — These are appliances for assisting in the work of legislation. They are provided for in the rules of each house. The committees are named from the subject of legislation over which they have jurisdiction. The most important committees are those called Foreign

Affairs, Finance, Appropriations, Judiciary, Commerce, Manufactures, Agriculture, Indian Affairs, Military Affairs, Naval Affairs, Public Lands, Pensions, and Claims. Each house also has a committee specially authorized to examine and report upon the expenditures of the money appropriated to each executive department of the government. Very few of the committees can take jurisdiction of a bill, of a paper, or of any subject, until it has been referred to it by its house.

Bills. — A bill is the name given to the draft of a law when it is introduced, and in its passage through the machinery of legislation: after it has been signed by the President, it is a law, or statute. Each house may originate bills upon any subject except one. The constitution provides that "bills for raising revenue shall originate in the House of Representatives," and that the Senate may propose amendments. The language of the constitution would restrict this exception to bills that propose to raise money for the support of the government; but the uniform and almost unquestioned practice has been to apply the prohibition to bills appropriating money as well. The term is practically applied to all bills for raising or disbursing the public money. The House of Representatives is larger than the Senate, its members are elected directly by the people, and the method of their election renders them more directly representative of the people — of the popular will. The framers of the constitution followed the example of England, in which the House of Commons, the immediate representatives of the people, hold the purse-strings.

Methods of Legislation. — These methods do not differ much from those employed by state legislatures. When

a bill is introduced, it is read by the clerk, either in full or by its title, as may be ordered by the house. If no one objects, it is ordered to be read a second time upon a subsequent day. If any one does object, a vote is taken on the motion to read it a second time. If the motion is lost, the bill is rejected; if the motion carries, the bill goes on file to be read again. It is seldom that any one does object to a second reading of a bill.

Upon a second reading, the bill may be rejected, or may be ordered printed and referred to its appropriate committee. After the bill is printed, a copy is delivered to each member of the house, and the committee to which it has been referred takes it under consideration. If the committee approves the bill as it reads, its chairman reports it back to the house, with the recommendation of the committee that it pass. If the committee approves the substance of the bill but does not approve its form, a member changes the bill to a form that will suit the views of the committee, and the chairman of the committee reports it favorably to the house.

If the committee does not approve a bill, either in substance or form, its chairman reports it to the house, with the recommendation of the committee that it do not pass. When it reports a bill, the committee may state the reasons for its approval or disapproval, or it may not do so. If the bill is an important one, or if it has attracted public attention to any great extent, or if it has much influence upon politics, the report of the committee is usually accompanied by a statement of reasons, often at great length. Each member of the committee is allowed to state his views separately, and sometimes this is done.

After the committee has reported, the house may adopt or reject the report. If the report is favorable to a bill, and the report is adopted, the bill is then ordered to be sent to the Committee of the Whole. If the report is unfavorable, a rejection of the report sends the bill to the Committee of the Whole, or may send it back to the same committee for farther action, or may send it to another committee. The rejection of a favorable report usually kills a bill, although it may still be recommitted to the same, or to another, committee. In case of such recommittal, the house usually instructs the committee what action to take. The sending of a bill to another committee, after an unfavorable report from one committee, indicates that the house favors the bill; in which case it is sent to a committee a majority of whose members are friends of the bill.

Committee of the Whole. — This committee consists of the whole house, but the formalities and rules of the house are laid aside, so that a bill or report can be discussed or amended more easily and fully than can be done in the house. It is simply a committee of the house, and has no organization but a chairman, who is designated by the presiding officer of the house. The clerk and other officers of the house continue in the discharge of their duties however during the session of this committee. Whatever action is taken by this committee is merely advisory, and must be reported to the house for approval. Usually a bill is perfected in this committee and is passed by the house just as it is reported. Sometimes the house reverses the action of the committee. Some members will not vote in the house, where their vote is recorded, as they voted in the committee, where no record is kept.

Action of the House. — After the Committee of the Whole has perfected a bill, it reports to the house the result of its action, just as any other committee reports. The house may then vote to adopt or to reject the report. Usually, a "yea and nay" vote is taken in the house upon each amendment proposed by the committee. Other amendments may be proposed and voted upon at this time. In the Committee of the Whole, and in the house after a report from that committee, are the stages for amending a bill. When the house perfects a bill, at this stage, it orders it engrossed for a third reading, after which it cannot be amended without sending it to a committee again. To engross a bill is to write it out just as it has been left by the house, putting the amendments into their proper places. This copy of the bill is carefully compared with the original bill and amendments, by a proper committee.

Third Reading. — After a bill has been engrossed, it is so reported to the house, and is then called up for a third reading and passage. It is read in full by the clerk, and a vote taken at once upon its passage by yea and nay. It requires the presence of a quorum, and the affirmative vote of a majority of those voting, to pass a bill. After the passage of a bill by one house, the clerk certifies upon it the fact, and the date of its passage, and delivers it to the other house while it is in open session. In that house the bill takes the same course already described, is subject to amendment or rejection, and is treated in all respects as though it originated in that house.

Amended by the Other House. — When a bill is amended by the other house, the bill and amendments must be sent back to the house from which the bill came.

If that house agrees to the amendments, it so votes, and the bill is passed. If that house does not agree to the amendments proposed by the other house, it so votes, and reports its action to the other house. The other house may then drop its proposed amendments and pass the bill without them, or it may insist upon its amendments as proposed. When such is the case, each house usually appoints a committee of conference. If those committees can agree, they report, and their houses adopt or reject their reports. Usually, the conference committees compromise the difference between the two houses, and their reports are more often adopted than rejected. When passed by both houses, the bill is enrolled, that is, written out again in full on parchment paper, signed by the presiding officer and clerk of each house, and sent, by a committee of the house in which it originated, to the President.

Final Stage. — The President is one of the executive officers, but the constitution makes him a legislative officer so far that his approval of a bill is necessary before it can become a law. When the President approves a bill, he writes upon it the word "approved," and the date of the approval, and signs his name beneath. If the President does not approve a bill, he must return it to the house in which it originated, accompanied by a message stating his reasons for declining to approve. If he does not so return it within ten days (Sundays excepted) after it is presented to him for approval, the bill thereby becomes a law without further action. If Congress adjourns before the expiration of the ten days, the bill does not become a law unless the President signs it. When the message of the President, stating his objections to a bill, is received by the house to which it is directed, the message is read

and entered in full upon the record. That house then proceeds, so soon as it is ready, to consider the message. If two-thirds of that house vote to pass the bill notwithstanding the objections of the President, it is sent to the other house, accompanied by a copy of the President's message. If both houses vote, by two-thirds, to pass the bill notwithstanding the objections of the President, it becomes a law. This is called passing a bill over the President's veto. The message objecting to a bill is called a veto. Every order, resolution, or vote which requires to be passed by both houses must be signed by the President or passed over his veto, in the same manner as a bill, in order to be effective.

When Laws take Effect. — The constitutions of many of the states provide a time when laws shall take effect after their passage. The constitution of the United States is silent upon that point. Therefore the laws of Congress take effect at once upon their approval by the President, or upon passage over the President's veto, unless the laws themselves state when they shall take effect.

Publication. — The proceedings of Congress are so important that the newspapers usually give more or less full statements of them, together with a report of the bills under consideration. After adjournment, however, the laws passed at that session are published in pamphlet form and distributed to the courts and higher officers of the government, and sold to others.

Adjournment. — Either house may adjourn from day to day at pleasure, but it is forbidden to adjourn for more than three days at one time without the consent of the other house. The assent of both houses is also necessary to an adjournment to any place other than the one in

which they shall then be sitting. In case the two houses cannot agree upon the time of adjournment, the President may adjourn them to such time as he shall deem best.

Impeachment. — The House of Representatives has the sole power to impeach an officer for official misconduct. The impeachment is tried by the Senate, sitting as a court. When the President is upon trial before the Senate, the Chief Justice of the Supreme Court presides: in other trials, the regular presiding officer acts. The proceedings in impeachment will be treated in the chapter upon the Judicial System.

CHAPTER IV.

THE LEGISLATIVE DEPARTMENT. — Continued.

POWERS OF CONGRESS.

As the government of the United States is one of limited powers, possessing no authority that is not given to it by the constitution, it follows that each branch of that government, also, must be limited in its powers. The first section of the constitution says that all legislative powers *herein granted* shall be vested in a Congress. We must then look to the constitution for a list of the powers granted and of the limitations imposed. We shall find both, and they will be taken up in their order. Section eight of Article I. contains a list of the powers granted.

I. To Lay and Collect Taxes, Duties, Imposts, and Excises. — To "lay" a tax is to make the necessary order for its collection, accompanied by such a description of the property or person to be taxed as shall enable the collector to act intelligently. There would appear, from the words of the constitution, to be four things which Congress has power to lay and collect; but, in reality, there is but one: all are taxes, but differing somewhat in their kind, and in their method of imposition and collection.

(*a*) A TAX, as usually understood, is a forced contribution, made periodically, by a person for the support of the government: this tax may be levied upon property or

upon the person. If laid upon lands or other real estate, it is called a realty tax; if laid upon personal property, it is called a personalty tax; if laid upon the person, as taxes for the improvement of roads and streets are laid in some states, it is called a poll tax, or capitation tax. This must be the kind of tax mentioned in sections two and nine of Article I.

(*b*) A DUTY is a tax levied upon goods once only. There are two kinds of duties, differing in the method of levy and the character of the property upon which it is levied. *An Impost Duty* is collected from goods manufactured in another country, and brought to this country for sale or use. This duty is levied when the goods are entered at the custom house, and must be paid before the goods can be taken from the custody of the government. Sometimes this duty is levied upon goods with reference to their value, — so many cents upon each dollar of valuation: it is then called an *ad valorem* duty. Sometimes the duty is laid upon each article, or measure of an article, without regard to its value — so much upon each pound, or gallon, or yard: it is then called a specific duty. Sometimes it is levied in both ways. The constitution uses the words "tax or duty," in the clause relating to immigrants and imported slaves. If levied upon the persons as human beings, it would be a tax; if levied upon the persons as property, it would be a duty, — specific impost duty. *An Excise Duty* is a tax levied once only upon goods at the place of their manufacture, and collected before the goods can be removed. During and after the late War it was levied upon many kinds of goods, but now (1888), it is levied chiefly upon liquors and tobacco, — so much upon each gallon of distilled

liquors, so much upon each barrel of malt liquors, so much a pound upon tobacco, and so much for each hundred cigars manufactured. This kind of duty usually includes all the methods of taxation except the annual levy upon persons or property, or impost duties. The taxes paid in stamps upon notes, deeds, drafts, etc., and the taxes upon professional occupations, or callings, and upon incomes, are property taxes, though generally grouped under the head of excise duties. The taxes upon professional occupations and upon incomes were levied and paid annually, like ordinary property taxes. All the other duties, impost and excise, are paid once only.

(*c*) UNIFORMITY. Under our form of government, there is little, if any, danger that the taxes or duties will be any higher in one part of the nation than in any other; but the men of the Revolution had just separated themselves from a government under which such partiality had been shown, and they took care to provide against the possibility of such injustice under the new government.

(*d*) OBJECTS. The section which we are considering states three purposes to which the money raised from taxes and duties may be applied: —

1. *To pay the debts.* (*a*) Under the confederacy, there was no common treasury, out of which the expenses of the war of the Revolution could be paid. The Articles of Confederation provided that each colony should pay its share of those expenses in proportion to the value of land possessed by it. But all the colonies did not pay their shares. The close of the war found the colonies heavily in debt for the expenses of the war. As all were to share in the benefits of the war, it was just that the new government, representing all the colonies, should assume that

debt. These then were the debts which the constitution authorized to be paid from the money collected from taxes and duties.

(*b*) It often happens, in the life of a nation, that it has need of money at once, for more than it has on hand, and when it cannot await the slow process of levy and collection of taxes. Then, it must borrow money, must create a debt. It cannot borrow money unless it has authority to pay. To pay debts so created is within the authority of this section.

2. *Common Defense.* A provision for the common defense, for the defense of the nation and of its people, is a usual and necessary object of taxes. A nation must be prepared to strike back at assailants if it would exist, and such preparation requires money.

3. *The General Welfare.* (*a*) Under this head must be included the payment of the ordinary expenses of the government. (*b*) In addition to this, there are harbors to be lighted and repaired, channels to be buoyed, coasts to be measured and sounded, ports to be protected from winds and waves, river channels to be kept open, canals to be dug, roads to be built, and many other works of internal improvement, which benefit the people of the whole nation in greater or less degree. To such objects the national money may be applied.

II. To Borrow Money. — As we have just seen, an occasion often arises when a government needs more money than it has on hand, and needs it before it can be collected. The outbreak of a foreign war, or of a domestic rebellion or insurrection, might call for the expenditure of millions of dollars within a few months. To meet such an emergency, this clause gives to the government authority to borrow money.

III. To Regulate Commerce. — (1) FOREIGN. There is no nation that permits outside persons to trade with its citizens, within its territory, without restriction. There are several reasons for this. (*a*) The government, through its organized forces of police, army, and navy, affords some protection to all the persons and property within its limits. These forces cost money, and those who receive benefits from them should pay for them. If foreign persons can find a profit in trade in our ports, they ought to share that profit with the people of the government that grants the privilege to trade. (*b*) If the government had no supervision of the trade between its citizens and foreign persons, it might find its citizens selling arms and other contraband articles of war to people who could not make them, and who would use them against us. The nation could not remain neutral in case of war between two of its neighbors, if its citizens could sell war-materials to either nation at pleasure. It would be inevitably drawn into the war. The nation is bound, in honor, to prevent its citizens furnishing aid to the enemies of any nation with whom it is at peace. For this purpose, it must know what is sold to go out of the country, and what is bought to come in. (*c*) It has a duty, too, to see that goods brought into the country are not injurious to the people in any way. This includes all degrees of injury, from the greatest danger to the slightest inconvenience. If the introduction of some goods would place the lives or health of people in danger, the government has a duty to prohibit such introduction. If only property is endangered, the duty is no less actual and plain. If such introduction of goods should tend to throw classes of people out of employment, or to cause a decrease of wages, or to encourage vice, or to increase pauperism, or

to break down national character, the duty of the government to prohibit or to discourage such importation by any means in its power seems clear. (*d*) In order to preserve a national character and national pride, the citizens of a nation must have an advantage over foreigners at home. What a citizen may claim as a right, a foreigner can request as a privilege only. That the rules and regulations by which the commerce of the nation is controlled may be uniform, they should all be made by the same authority, and be applicable to all places and to all persons alike.

CHAPTER V.

THE LEGISLATIVE DEPARTMENT. — *Continued.*

POWERS OF CONGRESS. — *Continued.*

III. To Regulate Commerce (*continued*).—(2) INTERSTATE. In 1887 Congress passed an Interstate Commerce Law. (See its provisions, pages 171–173.) The welding of the several colonies and states into a compact and united nation has been so thorough that citizens know but little of state lines, except in regard to political affairs. The constitution has doubly guarantied that the citizens of one state shall possess and enjoy all the privileges and immunities of citizens of the several states. Therefore a citizen of one state can trade in another state with the same freedom from restriction and restraint as can the citizens of that state. It is clear, if we may judge from the language of the constitution, that the framers of that instrument had somewhat obscure ideas about the relations of the states to each other and to the central government. This clause would indicate that they regarded the states as aliens to each other, very much as France and Spain are alien to each other. Only in matters of local government are they so alien. Duties are not levied upon goods passing from one state to another, nor is there any inspection of them, or interference with their free transit in any way by any government. In practice, in commercial matters, the United States is one country, where-in

state lines are neither regarded nor observed. The regulation of charges upon the transportation of passengers and freight from one state into or through another is about the only subject upon which Congress has been asked to act under the authority of this clause. While there might seem to be sufficient power in the individual states to make such regulations as would protect their own citizens, yet such regulations would not be so uniform and impartial as the industrial interests of the nation require. Hence, Congress has made such regulations and enacted such laws as shall apply alike to all the states.

(3) INDIANS. To some extent the Indians have always been regarded by the government as organized communities, with whom treaties could be made. This was especially so at the time of the formation of the constitution. Then, there were large nations of Indians who occupied the great tracts of country west of the settlements. There were reasons, drawn from the character of the Indians, which made it desirable that the commercial intercourse between them and the settlers should be very greatly restricted. There was a special necessity for making it difficult for the Indians to obtain arms and ammunition and intoxicating liquors. In addition, the same reasons that made it proper for the nation to have the right to regulate trade with foreign nations, made it proper for the nation to have control of the trade with the Indians. Since the great West has been settled, there are no longer any Indian nations; and the whole population, living in 22 states and territories, is estimated at about 170,000. The Indians are now under the protection of the national government, and all trade with them is, as it ought to be, under the regulations of that government.

IV. Naturalization. — The United States is essentially a nation of immigrants. From its first settlement, there has been a tide of immigration from Europe — the newcomers came to stay. As the privileges and burdens of citizenship ought not to be lightly assumed, and as there ought to be some means whereby the government may know who are and who are not citizens, it is proper that those who intend to become citizens should do something to indicate that intent, and some record should be made of it. In monarchies, it is usual, when a person succeeds to the throne, for all the officers and men of the army and navy, and of the civil service, to take an oath of allegiance to the new sovereign. And it is very proper for a person who changes his allegiance to take an oath of fealty to the new government under which he is to live. To provide for these things, Congress has made rules and regulations governing the admission of foreigners to American citizenship.

V. Bankruptcy. — A bankrupt law is one that permits unfortunate business men, who cannot pay their debts, to deliver all their property to trustees for the benefit of their creditors as payment in full of all their debts. Those who have failed in business, not always by their own fault, and who have large debts hanging over them, have no incentive to enter business again, as their earnings could be seized at any time by their creditors. The government deems it better for the public good that all debts be wiped out, under such circumstances, and the unfortunate debtor be allowed to start again. Each state still has the right to make such laws upon this subject as will affect its own citizens, only. A state law cannot release a debtor from the claims of a creditor who resides in another state; only a law of Congress can do that. At present (1888),

there is no *national* bankrupt law. Most of the states have one of that character.

VI. Money, Weights, and Measures. — All civilized countries assume the exclusive right to coin the money which the people use, and to regulate its value. In no other way can the people be sure that the coin in use contains the proper amount of precious metal, or that it has the value that it pretends to have. For like reason, the governments take the right to determine the standards of weights and measures. Unless the governments did this, people could not know that they were buying thirty-six inches for a yard, or sixteen ounces for a pound. Money, weights, and measures, used by all the people, ought to be the same in all places in the same nation, and one authority should provide rules for making them so.

VII. Counterfeiting. — All governments have the right to punish those who resist their authority, or who interfere with their functions. In order to perform its duty in furnishing to its people uniform coin, and in emitting securities, it must see that the coin is not debased nor the coin or securities counterfeited. The right to punish counterfeiting the coin and securities of a nation would seem to be a necessary part of the right to issue them.

VIII. Post-offices and Post-roads. — These are new things in the history of the world. Anciently, among all people, there were arrangements for carrying the dispatches of the government, — for conveying official reports and letters between the officers of the government; but there was not, prior to 1635, any arrangement for carrying the letters of the people. At that date, the first post-office for the people was established, in England, and it was not until 1649 that the government of Great Britain assumed charge of it. The colonies adopted the plan of

government post-offices and post-roads in 1710, and under the administration of Benjamin Franklin, who was the first Postmaster-General, it was rapidly extended and improved. The system became permanent, as a branch of government business, upon the adoption of the constitution. To Congress is given control of the establishment of post-offices and post-roads, as the system ought to be uniform over the whole United States.

IX. Copyright; Patents. — These two rest upon the same principle. The right to the exclusive ownership of one's own inventions and of the product of one's own thoughts, is one of modern acceptance, although it is not universally accepted. Even some Americans deny the right. All discoveries in the arts and sciences are necessarily costly in the expenditure of time and money. All work, too, that comes under the head of literature, is costly in the time, labor, and expenditures in preparation for it as well as in its production. It is therefore right that those who enjoy benefits from inventions and from literary labors shall pay for them. Some autocratic governments reward authors, inventors, and discoverers by gifts of money or lands or by pensions. The more modern, and the more equitable, idea is to guarantee to such persons the exclusive right to print and sell their own literary works, and to use their own inventions or discoveries, by themselves, or purchasers, for a term of years, during which time, it is supposed, they may repay themselves for their time and expense. This is the plan of the constitution, which gives to Congress authority to carry it out.

X. Courts. — The constitution provides for but one court, and leaves to Congress the duty to ascertain what other courts are wanted and to provide them, and to make rules and regulations for their government. [Art. III., 1

and 2.] The court of the constitution is the Supreme Court, and the courts to be established by Congress must be inferior to it.

XI. Piracies. — (*a*) Very few criminal offenses come within the jurisdiction of the government of the United States: most are left to the local regulation of the states. The boundaries of the states terminate at the seashore, but those of the national government extend to a distance into the sea, three leagues, or nine miles. Upon that portion of the sea not within the boundaries of any state, the citizens of the United States are within the protection of the nation. The government of the United States takes upon itself to punish piracy and other felonies committed by any one within the three-league limit, or by any of its citizens outside that limit. The power that provides punishment for a crime should be the one to define that crime. (*b*) The states have no relations to foreign governments except through the United States government, and cannot make treaties with other nations. The law of nations, so-called, is simply a condensed statement of the treaties between nations. There are, however, many rules regarding the intercourse of citizens of different nations and the relation of nations to each other and to each other's subjects or citizens which are so generally embraced in the treaty stipulations of all the civilized nations that they are usually regarded as of universal acceptance. As between the nations accepting those rules, they are regarded as laws. There have been many books written to systematize and explain these laws. No one but themselves can make laws for independent nations. Therefore the national government must help to make all the rules that apply to the relations of the United States to foreign nations, and must help to enforce them by the punishment of those who violate them.

CHAPTER VI.

THE LEGISLATIVE DEPARTMENT.— Continued.

POWERS OF CONGRESS.— *Continued.*

XII. War.— Every independent government must have the right to determine for itself when to engage in war and when to make peace. Every such nation must also have the means to repel assaults and to punish its enemies, otherwise it would not long remain independent. To do these, armies and navies are needed. These are the police forces of a nation. Necessarily, the same government that has the right to declare war and to make peace, must have the right to raise and to use the army and navy, and must also have authority to make all the rules and regulations needed for their government, for disposing of captures upon land and water, and for arming, training, and officering both arms of the service; that is, to have full control of all the means of defense and of offense. In deference to the several states who desired to retain some semblance of sovereignty, the constitution allows the several states to appoint the officers of the militia, and to train the militia under the rules to be prescribed by the Congress. The rules are to be prescribed by Congress, so that they may be uniform throughout the nation. The army is the body of national police force in active service, while the militia is simply a like force partially trained, which can be called out when needed.

XIII. District of Columbia. — At the time of the adoption of the constitution, the nation had no located capital. Arrangements had been made, however, to receive the gift of a tract of land, ten miles square, from Virginia and Maryland, situate on the Potomac, on which to locate the capital. This provision is expressive of that arrangement, and states that Congress shall have, as it ought to have, exclusive control of that tract of land. The government cannot afford to be subject to the good-will of any one of the states; it must be independent of all of them. The public buildings of the United States, its forts, arsenals, dock-yards, and other places needed by the government for any purpose, must, likewise, be wholly under its control. Whenever the national government purchases any land within the boundaries of a state, for any purpose, it secures an act of the legislature of that state ceding to the national government exclusive control of the land so purchased, and of the buildings erected thereon.

XIV. General Powers. — This is a sweeping clause to remedy any oversight in the grant of specific powers. It is useful in protecting the officers and inferior departments of the government in the exercise of their duties. The courts would probably hold, in any event, that, when the constitution gives any authority to the national government, or to any department or officer of it, Congress would have the right to enact laws for making such authority effective. Some of the state courts have already decided that when power is given to an officer, all the proper means for the effective exercise of that power are necessarily given. Such view would probably have been taken by the United States courts, without this last provision. The existence of this general grant prevents a great deal of dispute.

XV. Slave Trade. — In section nine, Congress is authorized to levy a "tax or duty" of ten dollars a head upon all persons imported into the United States, and to prohibit such importation after 1808. The persons referred to in this section were slaves, and the importation was the slave trade. So far as the "tax or duty" on slaves is concerned, the right to levy such a tax is a dead letter, as Congress prohibited the slave trade in 1808, and there can be no persons imported upon which such a tax could be levied now.

XVI. Election of Members of Congress. — The duty to provide rules for the election of United States senators is given to Congress; but Congress cannot fix the place where the election shall be held. That place ought to be the capital of the state, and each state locates its own capital. Uniformity and certainty in the rules for all governmental action are very desirable; especially is this the case in the matter of elections. But there would not be uniformity in the election of United States senators if each state should be left to make rules for itself. Besides, as the United States senator is an officer of the United States, the government of the United States should have control of his election. Nearly the same reasons apply to the election of members of the House of Representatives, and Congress may make regulations for their election. [Art. I., sec. 4.]

XVII. Electors. — While the method of electing the Presidential electors is to be determined by the different states, each for itself, Congress has set the day for their election, and the day upon which they shall vote for President. It is important that all the electors shall cast their votes upon the same day, in order that each may vote his

individual preference, without regard to the manner in which others may vote. [Art. II., sec. 1.]

XVIII. Treason. — In the first part of section three, Article III., the constitution declares that treason shall consist of levying war against the nation or in adhering to its enemies, giving them aid and comfort. The constitution does not attempt to fix the punishment for their crime: this it leaves for Congress to do.

XIX. Public Records. — The constitution declares that the public acts, records, and judicial proceedings of each state shall have full credit in all the other states. Congress may provide the manner of proving such acts, records, and proceedings, and declare the effect of such proof. If a judicial decision has been rendered against a person in one state and he move to another, it can be enforced against him there without a new trial, under this provision. [Art. IV., sec. 1.]

XX. New States. — Congress has sole power to admit new states. At the close of the Revolution the country extended west to the Mississippi, north to the great lakes, but not to the Gulf of Mexico on the south. Large tracts in the west and north-west owned by the states were afterward ceded to the United States, and in 1787 Congress organized a territorial government for this north-western territory, and provided for its division into five states. This division was afterwards made, and the territory became the states of Ohio, Indiana, Michigan, Wisconsin, and Illinois. The south-western territory, claimed by Georgia, North Carolina, and South Carolina, was unorganized, but was expected to follow the fortunes of the north-western territory. Maine was a detached portion of Massachusetts; Vermont was claimed by New

Hampshire and New York, while the residents asserted their independence. This comprised the expectations of new states, at the time the constitution was framed. Nothing was known, or contemplated, of the great tract of country, west of the Mississippi river, which was afterwards purchased from France and Mexico. [Art. IV., sec. 3.]

XXI. Public Lands. — Any right to own property must carry with it the right to make rules concerning its control. As stated above, much of the unsettled lands, that were not within the limits of any of the colonies, were claimed by more than one colony, and trouble was threatened in consequence. All this territory in the north-west was ceded to the United States just before the formation of the constitution was completed. This cession was made as a compromise. Some of the colonies refused to enter the union unless the cession was made, as they were jealous of the influence which the possession of large tracts of land, in the nature of provinces, would give. Besides, many thought that such possession of land, by states outside their limits, was inconsistent with the nature of the government about to be established. The section of the constitution concerning the right of Congress to dispose of, and to make rules and regulations concerning the territory of the United States, was inserted in order that there might be no question about it. The proviso that nothing in the constitution should be construed so as to prejudice the claims of the United States or of any state may not have been necessary, but was justifiable, perhaps, in view of the rivalry that then existed between the colonies. [Art. IV., sec. 3.]

XXII. Nobility. — We shall soon see that the United States cannot grant to any person any title of nobility, and that no officer of the United States can "accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state." The constitution permits Congress to give its consent to such acceptance of a gift from a foreign ruler or government. This permission is very seldom used by Congress, and never except for the purpose of enabling an officer to accept a present, or other honorary testimonial, in recognition of gallant and meritorious services, in the line of literary, scientific, or humane action. The American people do not believe very much in the value of titles of nobility, and they are not willing that a taste for such titles shall ever prevail in the United States. [Art. I., sec. 9.]

XXIII. State Tariff. — We shall see, also, that the states are forbidden to lay any duties upon imports or exports. The framers of the constitution evidently considered that there might be circumstances connected with the cost of keeping some ports in order and safety that would make it proper for a state to repay itself for such cost from the commerce of that port. Hence, Congress is allowed to give its consent to such action when proper. [Art. I., sec. 10.]

XXIV. State Troops. — While the states are forbidden, as we shall see, to levy tonnage duties, keep troops or ships of war, in time of peace, or enter into agreements with other states or nations, circumstances might arise to make this prohibition burdensome and unwise: therefore Congress is authorized to consent to such actions by the states, when, in its judgment, the public interests will permit. [Art. I., sec. 10.]

XXV. Amendments. — Congress has power, also, to initiate amendments to the constitution, of which the details will be given hereafter. [Art. V.]

XXVI. Sundries. — Each of the three amendments last adopted, the thirteenth, fourteenth, and fifteenth, contains a final clause giving to Congress authority to make all needed laws, rules, and regulations for the proper enforcement of the amendment. These amendments are of such a nature, being largely restrictions upon the powers of the states, that Congress could not enforce them without this authority. Without authority given to some department of the government for their enforcement, they would be obeyed or not, as each state might decide for itself. These amendments will be considered in their proper place.

CHAPTER VII.

THE LEGISLATIVE DEPARTMENT. — *Continued.*

RESTRICTIONS UPON CONGRESS.

In the last chapter, we have considered the various powers which the constitution has given to Congress. In order that legislative authority might not be carried too far, the constitution has provided some restrictions upon those powers, and some restrictions upon such powers as would naturally belong to a legislative body. These restrictions are needed in order to keep the powers of Congress in harmony with a form of government under which there are other governments in some measure independent of it.

I. Appropriations for the Army. — Congress has authority to raise and to support armies, but it is prohibited from making appropriations for that purpose for a longer term than two years. The people are recognized as the real rulers, and this restriction allows the voters, in the election of members of Congress, to express their wishes upon the question of a war every two years. As a rule, the appropriations of money by Congress are made annually.

II. Bill of Attainder. — *Ex Post Facto* Law. The prohibition upon the power of Congress in reference to these two subjects has been discussed already. (See page 26.)

III. Tax. — The right to levy a direct tax is restricted so that it must be levied in proportion to the population

of each state. Under this provision Congress might pass laws levying a direct property and capitation tax, but it could not oblige the states to collect it, nor would it have the power to use state and local machinery for its collection; a large number of special officers distributed through the country would be required to collect it. Revenue more than sufficient for the needs of the government is now raised by duties upon imported goods, and from the manufacture and sale of a few domestic articles that are thought to be injurious. [Art. I., sec. 9.]

IV. Export Duty. — According to the meaning usually given to this prohibition, Congress cannot levy an export duty upon any article produced in any of the states. During the war of 1861–65 an export duty was levied and collected upon cotton. Although such levy has been considered to be illegal, the money so collected has never been repaid.

V. Preferences. — The trade of a country, whether import or export, usually concentrates at a few ports. The natural tendency of legislation would be to make rules and regulations for such ports different from those made for other ports. In the eye of the law, all places should have equal privileges, and all rules and regulations should be uniform. So the constitution declares that all regulations of commerce and of revenue shall be uniform, shall apply to all ports alike, and that no preference shall be given, for or against, the ports of any state. It was one of the accusations against the mother country, that the regulations of the commerce and revenue, made for the colonies, were often unjust and preferred favored ports. Vessels were often obliged to enter at such ports, and to clear from them, even if they did not desire nor need to go there. As early as 1676, a law of Parliament required

that goods, shipped from one port in one of the colonies to a port in another colony, should pay duty at the port where they entered. Such regulations were inconsistent with the theory that the colonies were a part of the British empire. Such regulations, continued under the new government, would be inconsistent with the theory that the United States constitute but one government. Were the separate states as independent and sovereign as is sometimes claimed for them, this prohibition would be out of harmony with the frame of government. [Art I., sec. 9.]

VI. Punishment of Treason. — We have seen that Congress may declare the punishment of treason, but the framers of the constitution have wisely defined treason and placed restrictions upon the extent and severity of its punishment. The harsh rules of the English law, by which the punishment of treason was visited upon the children, and even upon the distant descendants, of a person, were very obnoxious to the more enlightened minds. Hence, Congress is prohibited from making the punishment of treason extend beyond the life of the traitor.

VII. New States. — While Congress has been clothed with the sole power to admit new states, its power is not unlimited. The smaller states were afraid that the superior influence of the larger states might result in the consolidation of several small ones into one large one, or in the annexation of a small one to a larger neighbor. At the same time, the larger states were equally afraid that the influence of the smaller states, if combined, might result in a division of the larger ones. In order to allay these fears, the constitution forbids the formation of a new state by the division of any state, or by the consolidation of two or more states, or of portions of states,

without the consent of the legislatures of all the states interested, as well as of Congress. [Art. IV., sec. 1.]

VIII. Sundries. — In the Bill of Rights, the student will find other restrictions upon the powers of Congress, — concerning the establishment of a state religion, the abridgement of the freedom of speech, of the press, of popular assemblies, and the exercise of religious belief, and others. These are fully treated in the proper chapter.

GENERAL PROVISIONS CONCERNING CONGRESS.

I. Compensation. — When we serve individuals in any way, we expect to be paid for such service. There does not seem to be any reason why any one should be expected to serve the public without pay. In England, the members of Parliament are not paid. As a necessary result, none but the rich can afford to be elected to that body. As another result, the legislation of Parliament is necessarily by, and for the benefit of, the rich. The framers of the constitution were not ignorant of the results of the non-payment of members of the English Parliament, and they wisely arranged that the same results should not be seen in the new government. The members of Congress are paid a salary of five thousand dollars a year, and twenty cents a mile traveled, as expenses of going to and returning from the sessions. The amount is fixed by general law, and is paid out of the national treasury. [Art. I., sec. 6.]

II. Appointment of Members to Office. — There is another provision of some importance; this is, that no member of either house of Congress shall be elected or appointed to any civil office under the United States, dur-

ing the term for which he was elected to serve as member of Congress, if that civil office had been created, or its compensation had been increased, during his service as member of Congress. This provision was inserted, evidently, out of a zealous regard for the best interests of the public, and in rebuke of a practice in England of making an office for a favorite of the king. [Art. I., sec. 6, 2.]

III. Violators of Official Oaths. — In the fourteenth amendment, adopted since the war of 1861–65, it is provided that no one can be a member of either house of Congress, who, as member of Congress, or as an officer of the United States, or as a member of the legislature of any state, or as an executive or judicial officer of a state, had taken an oath to support the constitution of the United States and had afterwards engaged in insurrection or rebellion against the nation, or had given aid or comfort to the nation's enemies. This disability may be removed by a vote of two-thirds of each house of Congress.

IV. Oath of Office. — Before entering upon the duties of office, each member of Congress must take an oath, or affirmation, to support the constitution of the United States. [Art. VI., sec. 3.]

V. Vacancies. — If a vacancy occurs in the office of senator, during the session of the state legislature, a successor is elected at once. If the legislature is not in session, the governor may fill the vacancy by appointment. Such appointee shall serve only to the next session of the legislature. In case of a vacancy in office of member of the House of Representatives, the governor calls a special election for filling the vacancy.

CHAPTER VIII.

ADMINISTRATIVE DEPARTMENT.

THIS is usually called the Executive Department. As we shall see under the next title, there is another department charged with the special duty of enforcing, or executing, the laws. The chief duty of the administrative department is to manage the affairs of the government. Its head is the representative of the nation in its intercourse with foreign nations, and indirectly so in its intercourse with the states. The student has learned, probably, that the governor is simply one of a half-dozen executive officers of a state, each of whom is elected by the people, and has duties of his own which he must perform according to his own judgment. Each is independent of all the others, — even of the governor.

The governor, who is called the head of the executive department, is hardly more than a co-ordinate officer, but with duties of a more general and responsible character than those of the others, and who occupies, in popular apprehension, the highest position of honor. He has very little, if any, control of, or responsibility for, the conduct of his fellows. In the national government, this is different. The President is endowed with powers and authorities often more than those possessed by the ruler in a limited monarchy. He appoints all the numerous officers, with consent of the Senate, that are needed in the administrative and judicial departments. Those of the

administrative departments, and a large portion of those of the judicial department, are responsible to him alone, except for such misconduct as would subject them to impeachment or indictment for crimes. The people hold him responsible for the good conduct of all officers of his appointment. His power is so great that he might try to dictate to Congress, and sometimes with success. In a state, ordinarily, the legislative department is the most important; in the nation, the administrative department is the most important. The head of this department is

THE PRESIDENT.

How Elected. — In every year divisible by four each state elects, or appoints, as many electors as the whole number of senators and members of Congress to which it is entitled. No member of either house of Congress, and no one else holding an office of trust or profit under the United States, can be an elector. The constitution gives to each state the power to appoint these electors in any manner that it may choose, but the people of the states usually elect them. Two or three states, for a time, appointed the electors through the legislature, but none do so now. The electors are elected in all the states upon the same day, which is the first Tuesday after the first Monday of November. On the second Monday of January following, the electors of each state meet at the capital of the State, and cast their ballots for President and Vice-President. They then make out three lists of all the persons who received votes for President, and the number of votes which each received, and also lists of votes for Vice-President. These lists are signed by all the electors, and sealed. One list is deposited with the judge

of the District Court in whose territory the capital of the state is situated; another list is sent by special messenger to the President of the United States Senate, and one by mail. On the second Wednesday of February, following, the two houses of Congress meet in joint convention. The lists of votes, sent in from the several states, are then opened, and the votes for each candidate tabulated and counted. If any person has received a majority of all the votes cast for President, that person is declared, by the President of the Senate, to be duly elected President of the United States. The votes for Vice-President are counted in the same way, and the result announced. If no one person has a majority of all the votes cast for President, the three persons having the highest number of votes are selected, and from those three the House of Representatives elects a President. In such election, each state has a single vote, — a majority of the members from a state casting the vote of that state. If the members of the House, from any state, are evenly divided, or so divided that a majority of them do not vote for one man, the vote of that state is not counted. The votes of a majority of states are necessary to elect. This election must take place before the fourth day of March following the election of electors in November. The President takes his office on the fourth day of March. In like manner, if no person has a majority of the votes cast for Vice-President, the Senate immediately proceeds to the election of a Vice-President, making the selection from the two persons who had received the highest number of votes for that office. At this election, two-thirds of the whole number of senators must be present, and a majority of the whole number of senators is necessary to a choice.

The Electoral Count. — When Congress is in joint convention to witness the opening and declaration of the certificates of the electors of the several states, any member may object in writing to the receipt of the return from any state. If objections are thus made, the houses must separate and at once consider and act upon them. On reassembling, their decision is announced. If there is but one return from a state, that must be counted, unless it is decided by both the separate and joint action of the two houses that it was not regularly made.

If there is more than one return from a state, and if the highest judicial tribunal of that state has endorsed the regularity of one of them, that one is to be received and counted. If there is a conflict of state tribunals as to who are the true and lawful electors, the vote of the state will not be counted, unless both houses, acting first separately and then jointly, agree upon which is the regular return.

If there is more than one return, and the state tribunal has not decided which one is regular, the one having the certificate of the state executive under seal shall be received and counted, unless both houses separately and concurrently reject it.

Also if neither return has the endorsement of the state tribunal or of the executive, and no decision can be reached by both houses in the same manner as before as to which return is regular, the state loses its vote.

Qualifications. — A President, at the time of his election, must be thirty-five years of age, must be a native-born citizen, and must have been fourteen years resident within the United States. There has been no decision of the Courts, or of Congress, construing this last qualifica-

tion. A loose construction would allow a native-born citizen, who had resided continuously out of the United States since he became fourteen years of age, and had retained his citizenship here, to be elected President. A more strict construction would render a man ineligible unless he had resided within the United States during the fourteen years immediately preceding his election. The strict construction would seem to be the more reasonable one, as it is very important that the highest officer of the government, one wielding such extensive authority, should be in the fullest and deepest sympathy and accord with the thought, the sentiment, manners, and notions of the people. It is known that people naturally fall into sympathy with the habits of thought and of manner, as well as political and social sentiments, of those by whom they are surrounded, and with whom they associate, especially if the association is voluntary. But it is generally the boast of our citizens that they return from foreign residence or travel better Americans than ever. Opportunities to compare foreign institutions with ours increases their love of country.

Oath of Office. — The constitution provides that, before entering upon the duties of his office, the President shall take an oath, or affirmation, in these words: —

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

Salary. — The President receives a salary of fifty thousand dollars a year, and he is prohibited receiving any other compensation from the United States, or from any of the states. His salary cannot be increased or diminished

during the term for which he has been elected. In addition to his salary, he resides in a building owned by the government, without payment of rent, and a large share of the expenses of his household is paid by the government.

Powers.—1. He is commander-in-chief of the army and navy of the United States, and also of the militia when it has been called into active service. So far, in the history of the nation, the President has never taken the field in active command of the army, but he has directed operations by sea and land, through the generals and admirals, from his office at Washington.

2. He nominates ambassadors to foreign courts, and ministers and consuls in the diplomatic service, the judges of the United States courts, heads of departments, and all the other officers of the United States, except some inferior officers whose appointment is vested by law in the heads of the departments or in the courts. When the Senate has confirmed the nominations, the appointments are made and objections issued.

3. He makes treaties with foreign powers. These must be confirmed by the Senate before they become valid.

4. He may grant pardons, reprieves, and commutation of sentence for offenses against the United States, except in case of impeachment.

5. At the beginning of each session of Congress, regular or special, he sends a message, a copy to each house, giving to Congress a more or less detailed statement of his official acts, and of the condition of affairs in all the departments of the public service, and recommends such measures of legislation as he deems necessary or desirable. He also furnishes to Congress information concerning his official acts and those of his subordinates whenever called upon

by Congress. It is customary for him to do so upon the request of either house, or of one of its committees.

6. In case of emergency, he may call extra sessions of Congress or of either house; and when the two houses cannot agree, at any time, upon the time of adjournment, he may adjourn them to such time as he shall deem best.

7. As the Representative of the Republic, he receives ambassadors and other ministers from foreign nations.

The Presidential Succession. — The powers and duties of the President devolve upon the Vice-President in case of the removal, resignation, inability, or death of the President.

Should the Vice-President, after becoming President, be removed, resign, be unable to perform the duties of the office, or die, then the duties would devolve upon the Cabinet officers in the following order: first, upon the Secretary of State; and then, in like manner, upon the Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of the Navy, and the Secretary of the Interior.

If there were no Secretary of State, or if the one appointed had not been confirmed by the Senate, then the office would pass to the Secretary of the Treasury if there were one and he were not under the same disability, and so on through the list. To succeed to the office, the Cabinet officer must have all the qualifications required by the constitution for President. If Congress is not in session when a Cabinet officer thus becomes acting President, and if it would not meet in regular session within twenty days, it is made his duty to issue a proclamation for an extraordinary session, giving twenty days' notice of the time of meeting.

CHAPTER IX.

ADMINISTRATIVE DEPARTMENT. — Continued.

THE DEPARTMENTS.

To assure a more orderly, systematic, and economic administration of the government, its officers are classified, each class having to deal with a separate group of subjects. These subjects are as follows: Foreign Affairs, Finances, Army, Navy, Miscellaneous Matters of Domestic Administration, Post-office, Legal Construction and Advice. In common terms, these are known as the departments of State, Treasury, War, Navy, Interior, Post-office, and Justice. Each department is presided over by a chief, who is called a Secretary of the department, in all but two, — the Post-office and Justice; these are called Postmaster-General and Attorney-General. Each has such assistants, subordinate officers, and clerks as are needed. The constitution makes no provision for this subdivision of the administrative department, except in the most general way, referring to it in Article II., section two, where it authorizes the President to require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of his office. These departments were created and their limits defined by Congress. Collectively, the heads of these departments are usually called the Cabinet of the President.

DEPARTMENT OF STATE.

This department was created July 27, 1789, at the beginning of the government. At first it was styled "The Department of Foreign Affairs," but it includes, as will be seen, some duties not related to foreign affairs, and the name was changed to its present one. The Secretary of State has charge of the correspondence with our own ambassadors, ministers, and consuls sent to foreign nations, and with the like officers of other nations sent to this country. The department is divided into eight bureaus, each with a distinct branch of the work.

1. The Diplomatic Bureau has charge of all correspondence with our own diplomatic agents, or those of other nations in respect to the relations of this nation to the others. The United States keeps a Minister Plenipotentiary at the more important capitals, and a Minister Resident at the lesser ones. The difference between the two classes of ministers is mostly one of rank and salary, the Ministers Plenipotentiary being of the first or highest rank, and the Ministers Resident being of the second rank. The authority given to those of the first rank is usually, though not always, greater than that given to those of a lower rank. The nations named keep a minister of like grade at Washington. Oftentimes, upon special occasions, the government sends a special agent to another nation, to act either independently of the minister or in conjunction with him. Through these ministers and special agents, all the diplomatic correspondence is conducted, and all the international business done.

2. The Consular Bureau has charge of the correspondence with the consuls and other commercial agents,

with instructions sent to them and reports received from them. These consuls and commercial agents of the government reside at such foreign cities as have commerce with the United States. They inspect the goods to be sent to the United States, compare them with the invoices, and certify to the character of the goods and to the correctness of the invoices. They look out, also, for attempts to smuggle goods to the United States, and attend to such other matters connected with the foreign commerce of the United States as may be required. They examine the clearance papers of vessels under our flag, and settle disputes between seamen and captains. In China, Japan, and Turkey, they are authorized to try American citizens for crimes committed by them in those countries.

3. The Bureau of Disbursement attends to the accounts of all the officers and agents under the control of the department.

4. The Bureau of Appointments and Commissions makes out messages of nomination, commissions, letters of appointment, and other records connected with the appointment of the officers of the government. The library of the department is in charge of this bureau.

5. The Bureau of Rolls and Archives keeps the originals of all the acts, resolutions, and orders of Congress, has charge of the publication and distribution of the laws, the treaties, and the constitutional amendments. The laws, resolutions, and orders of Congress are published in book-form, at the close of each session, and are distributed to the principal officers of the government at home and abroad, in order that the officers may know the laws and their duties under them.

6. The Bureau of Authentication has the custody of the Great Seal of the government, and of the seal of the department. It prepares and certifies to all copies of laws, resolutions, or orders of Congress, and of all other official papers, and attaches the seal of the department to such certification, and the Great Seal to all proclamations of the President, and to such other papers as require it.

7. The Bureau of Pardons and Passports has control of all papers and letters concerning pardons, reprieves, and commutations issued by the President. It also issues passports, and keeps records of the same. Persons traveling in foreign countries frequently, and in some countries always, need passports, which are letters from the government, describing the persons who carry them, certifying that they are citizens of the United States, and are entitled to all the rights which are accorded to citizens of the United States by treaty, or by the customs of nations.

8. Translators. The department is obliged to keep skilled linguists in its employment in order to furnish to the head of the department translations of communications from non-English speaking nations.

Each of these bureaus is under the charge of a chief, or clerk, with such subordinates as are needed.

Some of the greatest statesmen named in American history have occupied the office of Secretary of State, — an office requiring the greatest prudence and the most skilful diplomacy. The first occupant of the office was Thomas Jefferson. Since him have followed John Marshal, John Quincy Adams, Henry Clay, Daniel Webster, John C. Calhoun, Edward Everett, William H. Seward, James G. Blaine, and Thomas F. Bayard.

CHAPTER X.

ADMINISTRATIVE DEPARTMENT. — Continued.

DEPARTMENT OF THE TREASURY.

THIS department was created by the first Congress, July 27, 1789. It is charged with the execution of nearly all the laws relating to the raising of revenue and to the disbursement of the public money; the rules concerning commerce and navigation, the survey of the coasts, the establishment and care of the light-house system and the marine hospitals, the control and supervision of the national banks, the coinage of money, and the collection of duties and internal revenue, — all belong to this department.

This department, also, is subdivided into bureaus, each of which has a head officer, and such other assistants as are needed. It has three Comptrollers, a Commissioner of Customs, a Commissioner of Internal Revenue, six Auditors, a Treasurer, a Register, a Solicitor, a Supervising Architect, and a Special Commissioner of Revenue. In addition, the collectors are numerous. For internal revenue there is one collector for each district into which the country is divided. For impost revenue, the country is divided into one hundred three customs-districts, in each of which is a city or town through which foreign goods are brought into the United States. In each district is a collector, appraisers, examiners, special agents, and clerks,

if necessary, to examine the goods imported, to compare them with the invoices, estimate the qualities and values of goods, and to determine what duty should be paid upon them. Such of these cities where goods are entered as are situated upon the boundary line of the nation are called ports of entry. If they are situated inland, the goods may be transported directly to them, in bond, and they are called ports of delivery.

The division of work in the department, at Washington, is as follows: —

1. The First Comptroller prescribes the method of keeping and reporting the accounts of the civil and diplomatic service and of the public lands. He revises and certifies these accounts, and none can be paid without his certification.

2. The Second Comptroller prescribes the method of keeping and reporting the accounts of the army and navy and of the Indian bureau. He revises and certifies these accounts, and none can be paid without his certification.

3. The Comptroller of the Currency has immediate charge of the execution of the laws relating to the paper currency of the nation, to the national banks, and to their currency. He examines these banks periodically and as often as he deems it necessary, in person or by special agents. The plates from which the paper currency is printed are kept in his office. His annual report shows the condition of each national bank, its circulation, deposits, and amount and kind of investments.

4. The Six Auditors hear and determine all claims and accounts for disbursements under the appropriations of Congress for pay and expenditures of the several de-

partments, as follows: (*a*) *First Auditor*, of the civil service list and private acts. (*b*) *Second Auditor*, of the pay, clothing, and recruiting of the army, armories, arsenals, ordnance, and Indian service. (*c*) *Third Auditor*, of subsistence of the army, fortifications, military academy, military roads, quartermaster's department, pensions, and military claims. (*d*) *Fourth Auditor*, of the navy. (*e*) *Fifth Auditor*, of the diplomatic service, whether regular or special. (*f*) *Sixth Auditor*, of the post-office department. In addition to his regular duties as Auditor, he also assists the Postmaster-General in the collection of debts and penalties due from contractors of the department, directs and attends to suits, civil and criminal, needed in the department, and has charge of the lands and other property obtained in settlement of debts and penalties.

5. The Treasurer has immediate charge of all the public money of the nation; the money is kept in several places. He has a vault in his office at Washington, and there is one each, at Philadelphia, New York, Boston, Cincinnati, and Chicago; at each place is a sub-treasurer under his control. The money is paid out at any sub-treasury upon the order of the Secretary of the Treasury and of the Postmaster-General.

6. The Register keeps the accounts of the public receipts and expenditures and the statistics of the navigation and commerce of the nation.

7. The Coast-survey is in charge of an officer who is called a Superintendent. This survey is for the purpose of ascertaining the exact shape and measurements of the coast, and the depth of the water at all places on the coast. The results of this survey are very important to the coasting trade.

8. THE COMMISSIONER OF CUSTOMS prescribes the method of keeping and of reporting the accounts of the custom-houses, and has charge of the expenditures for erecting and repairing the buildings used in the customs-service.

9. THE COMMISSIONER OF INTERNAL REVENUE has the general supervision of all matters connected with the enforcement of the tax laws.

10. THE SPECIAL COMMISSIONER OF THE REVENUE is required to investigate and study the principles and sources of revenue, the best method of levying and collecting taxes, the administration of the revenue laws, and the relations of foreign trade to domestic industry.

11. THE SOLICITOR OF THE TREASURY has general charge of all the litigation connected with the administration of the laws under which the department acts.

12. BUREAU OF STATISTICS. In the Treasury Department is a bureau called the bureau of statistics. Its duty is to collect, arrange, and classify such information as may be procured, showing the condition of agriculture, manufacturing industry, domestic commerce, the currency, and banks, markets, transportation, and wages, and the commerce and navigation of the United States with foreign nations. Its annual reports include condensation and classification of the business of government officers, banks, railroads, steamships, and whatever information it can obtain from private sources.

CHAPTER XI.

ADMINISTRATIVE DEPARTMENT.— Continued.

DEPARTMENT OF THE TREASURY.— *Continued.*

The Revenue System. — CUSTOMS-REVENUE. As we have learned already, revenue is derived from foreign-made goods which are brought into the United States. For the purpose of raising revenue from this source, Congress makes a list of all goods, or articles of merchandise, upon which it desires to levy a duty, and against each article, as named, it places a sum of money, or a rate per cent. To illustrate: If a certain sum of money is placed opposite an article, such article is to pay duty upon a certain quantity to the amount of that sum of money: as, boots, 35 cents a pair; cheese, 4 cents a pound; wheat, 20 cents a bushel; cast iron, $6 a ton. If a per cent is placed opposite the article, such article is to pay duty upon its valuation at the rate per cent named: as, blank books, 25%; carpets, 40%. Some articles, as wool, pay a certain sum per pound, and a rate per cent upon valuation: as, clothing wool, valued at 32 cents a pound, or less, pays a duty of 10 cents a pound, and 11% upon its valuation; if the wool exceeds a value of 32 cents a pound, it must pay a duty of 12 cents a pound and 10% upon its valuation. This list is called a tariff. The value of the goods upon which the duty is based is the value at the place of exportation, and is usually shown by the invoice or by other evidence.

The custom-house officers employ experts to examine the goods and to report upon their value. When goods arrive at a port of entry, they are examined by the experts and by the examiners, weighed, counted, or valued. If they correspond with the invoice and are found to be correct, they are entered, and may be removed upon payment of the duty. If an importer is found to have undervalued his goods, or to have misrepresented their character or quality, or to have tried to get them in without the payment of duty, the goods are seized and confiscated to the government, which sells them for the payment of the duties due, and the surplus, if any, is placed in the public treasury. The persons thus defrauding, or attempting to defraud, the government, may also be otherwise punished.

This system of raising revenue is the most popular one, and, if fairly adjusted, is considered the best. By it sums of money, very large in the aggregate, are collected from the consumers of foreign-made goods in a way that is least noticed and felt by them. This system has been in use, in the United States, since July 4, 1789, when the first tariff law was enacted, upon the recommendation and approval of Hamilton and Washington. There have been frequent changes made in the rate of duty levied, but the system has been steadily adhered to by the people. This system of taxation has been used often for a purpose other than that of raising revenue. The first tariff law had a preamble that recited its purpose to be to raise money and to encourage and protect manufactures. All statesmen admit the great value of domestic manufactures to a nation. They promote enterprise, productive labor, and division of labor, advance wages, increase and keep at home the circulating medium of a country, give steadiness to industry

and commerce, and lessen the dependence of a people upon foreign nations, — in short, they add to the prosperity and well-being of a nation.

Internal Revenue. The other system of raising revenue is by internal taxation. Upon two or three occasions, the government has imposed a direct tax upon the people. This tax is apportioned to the states in proportion to population, and the states collect it by their revenue machinery and pay the amount to the national government. This tax was levied once during the late War of 1861–65. At the same time a stamp-tax was imposed. By law, every deed, note, check, draft, mortgage, will, or other legal instrument, had to pay a tax according to the amount of money represented by it. The stamps were purchased from the government and affixed to the instrument taxed. A tax was also placed upon the incomes of the people. An income of less than one thousand dollars was exempt. Incomes above that paid tax according to their amount, beginning with three per cent and increasing in rate as the amount of the income increased. An occupation tax of ten dollars a year was laid upon lawyers, brokers, bankers, insurance agents, and upon many other professions, and upon most classes of manufacturers. These taxes have now been abolished.

There remains now only the tax upon the manufacture and sale of liquors and tobacco. Whiskey pays a tax of ninety cents a gallon upon its manufacture, and other liquors, distilled, fermented, and malt, in proportion. A tax is levied upon each pound of tobacco manufactured, and upon each cigar. Manufacturers and dealers in liquors and tobacco also pay an occupation tax, collected annually. A tax is levied, also, upon the circulation of state banks

and private banks, but the tax is so high as to prevent all such circulation, which was the object of the tax. National banks still pay a tax, but it is little, if any, more than sufficient to repay the government for its supervision of them.

These taxes are collected by the internal revenue collector for the district in which the goods are made, or in which the dealer does business. As in the case of custom-house collections, the government employs special agents and experts to see that no frauds are committed by the manufacturer or dealer.

The collection of internal revenue taxes as imposed during the civil war requires such an inquiry into the private business of the citizen that the system has always been unpopular.

CHAPTER XII.

ADMINISTRATIVE DEPARTMENT.— Continued.

DEPARTMENT OF THE TREASURY.— *Continued.*

A Light-house Board consists of the Secretary of the Treasury and six others, appointed by the President. This board has charge of the administration of duties relating to the construction, the lumination, inspection, and superintendence of light-houses, light-vessels, beacons, buoys, and seamarks. All these are provided by the government so as to enable vessels to avoid rocks, sand-bars, and other dangerous places, either on the coast or at the entrance to harbors, or channels of navigable rivers. An experienced engineer has the immediate charge of the work of building them and of keeping them in repair. The coast of the United States is divided into districts, each of which is in charge of an officer of the United States navy, called an inspector. He has such subordinate officers and help as he may need in keeping the light-houses and light-ships properly lighted and cared for, and in keeping all the appliances of this service in good order.

The Mint. — The metal currency of the nation is coined at a mint. Of these, the principal one is at Philadelphia; branch mints are established at San Francisco, New Orleans, Carson City, and Denver City; with assay offices at Boisé City and New York City.

National Banks. — The present system of National Banks was established in 1862. These are private affairs,

so far as ownership is concerned, but they are chartered by the United States and are somewhat under the control of the government, through the Comptroller of the Currency and the Secretary of the Treasury. These banks are owned by corporations the same as state banks, and each shareholder is personally liable for the debts of the bank to the amount of the par value of his stock. When a national bank desires to issue notes or bills, it must deposit with the United States Treasurer bonds of the United States to an amount not less than one-third of its capital stock, and will receive from the Comptroller of the Currency notes or bills to the amount of ninety per cent of the bonds so deposited. If the bank should fail to pay its notes or bills when presented, the government will pay them and sell the bank's bonds to repay itself. The national banks are examined by a United States treasury agent, four or five times a year, in order to see if the business is done as directed by the laws and by the rules of the department. Whenever the banks violate the laws, the government may take possession and close them up.

The first Secretary of the Treasury was Alexander Hamilton, one of the ablest financiers of the nation. Many able men have succeeded him, including Albert Gallatin, Thomas Corwin, John A. Dix, Salmon P. Chase, William Pitt Fessenden, and John Sherman.

CHAPTER XIII.

ADMINISTRATIVE DEPARTMENT.— Continued.

DEPARTMENT OF WAR.

THIS department was created at the beginning of the government, in 1789. The Secretary of War ranks next to the President in military dignity and authority. He has the whole oversight of the army and of its affairs.

The same subdivision of work is found in this department as in the others.

1. THE ADJUTANT-GENERAL keeps the records of the army and issues commissions. All orders for the army, from the Secretary of War or from the commanding general, go through his office for registry and for his signature. The annual returns of the army come to his office for registry, compilation, and comparison.

2. THE QUARTERMASTER-GENERAL attends to the provision of quarters, storage, transportation, horses, horse-equipments, and horse-provisions. He also has charge of barracks and national cemeteries.

3. THE COMMISSARY-GENERAL provides subsistence for the troops and for military forts.

4. THE PAYMASTER-GENERAL attends to the payment of the army and of the Military Academy. The paymasters, who attend immediately to the payment of the army, act under his directions.

5. THE ORDNANCE BUREAU furnishes and distributes

the guns and ammunition to the troops and forts, and has charge of armories and arsenals.

6. The Chief Engineer attends to the military defenses of the nation, to the improvement of rivers, and to the surveys relating thereto.

7. The Surgeon-General controls all matters relating to the purchase and distribution of the medicine and to the surgery of the service, the management of the sick and wounded, and of the hospitals.

8. The Judge Advocate-General has charge of all prosecutions under the articles of war, and he examines and passes upon all sentences of courts-martial and of military commissions.

9. The Signal Corps is a subdivision of the department that has charge of the signal service of the army while in active operations. There are various devices for transmitting information by signals, and new signals are being constantly devised. The collection and distribution of the reports of the weather is a duty assigned to this corps. Reports are received three times a day from hundreds of places in the United States, giving the degree of heat, of atmospheric pressure, the direction and force of the wind, the condition of the air, whether cloudy, fair, raining, snowing, hailing, etc., and often other facts, at each place. From these facts, an officer tries to predict the weather at each place for the succeeding day, and that prediction is sent by telegraph to that place. This branch of the service is yet in its infancy, and the predictions are not always verified.

10. The Army. The officers of the army are: Lieutenant-General, Major-General, Brigadier-General, Colonel, Lieutenant-Colonel, Major, Captain, First Lieutenant, and

Second Lieutenant. A captain has command of a company of soldiers, whose maximum number is one hundred. The two lieutenants are his subordinates and take his place, in his inability to command, in the order of their rank. The colonel commands a regiment, and the lieutenant-colonel and majors are his subordinates, and take his place, in his inability to command, in the order of their rank. Infantry regiments have ten companies and one major. Cavalry regiments have twelve companies and three majors, each major having immediate charge of four companies, called a Battalion. The commanding officer of an infantry regiment has two assistants, — an adjutant, ranking as a first lieutenant, who has charge of his papers, countersigns his orders, and helps make his reports; and a quartermaster, ranking as first lieutenant, who has charge of the supplies for the regiment.

In cavalry regiments, the quartermaster has charge of all the supplies except the food for the men, which is in the charge of a commissary, ranking as first lieutenant. The Brigade is composed of two regiments or more, and is commanded by a brigadier-general. A Division is composed of two or more brigades, and is commanded by a major-general. A Corps is composed of several divisions. Each general has an adjutant-general and a quartermaster-general, with such other aids, detailed from the service, as he needs. In times of peace, there is no aggregation of troops in brigades or divisions. The major-generals command divisions of the national territory or departments, and brigadier-generals have charge of subdivisions thereof. In time of war, it frequently happens that colonels command brigades and occasionally divisions, and that other officers hold commands equally above their rank. The lieutenant-

general is the highest officer at present provided for by the law. He has his headquarters, or office, at Washington in time of peace. In time of war, if he takes personal command, his headquarters are with himself. The office of general, the highest known in the history of American military law, has been filled, but is now not in use. Soldiers are enlisted, in nearly all the large cities, for a definite length of time, usually for five years. They must be sound in health and of good character. The officers are appointed from the graduates of the Military Academy at West Point. They serve during life unless they resign or are dismissed for misconduct.

The Military Academy is under the control of a superintendent, who is usually an officer of high rank and of great experience. He is assisted by a corps of instructors and other officers. Each member of the House of Representatives is entitled to nominate for appointment to the Military Academy one person from his district. Each territory, and the District of Columbia, is entitled to the appointment of one person, and the President may appoint ten persons at large. Candidates for such appointment must be between the ages of seventeen and twenty-two years, of sound physical health, of good moral character, and must be at least five feet in hight. They must have had a fair education, and must pass an examination in English Grammar, Descriptive Geography, and the history of the United States. Members of the Academy are called cadets. They serve four years, during which time they are instructed in army discipline, and in all the branches of human knowledge deemed necessary for the discharge of any military service. While at the Academy, they receive one soldier's ration and five hundred dollars a year

from the government, and must agree to serve the nation, in the army, not less than eight years, after graduation. Upon graduation, they are appointed to positions in the army, usually as second lieutenants. Promotions in the army are mostly made by seniority of rank; occasionally for meritorious conduct.

General Henry Knox, of eminent Revolutionary service, was the first to fill the office of Secretary of War. Among the noted statesmen and soldiers who have followed him in that office are General Dearborn, John C. Calhoun, Lewis Cass, William L. Marcy, Jefferson Davis, and Edwin M. Stanton.

CHAPTER XIV.

ADMINISTRATIVE DEPARTMENT. — Continued.

DEPARTMENT OF THE NAVY.

THIS department was not created at the beginning of the government, but all naval matters were controlled by the Department of War until 1798, when this branch of the service was added. The Secretary of the Navy has control of all the affairs of the government relating to its navy and naval operations. The detailed work of the department is divided among several bureaus, as follows: —

1. BUREAU OF YARDS AND DOCKS. As its name indicates, this bureau attends to the navy yards, docks, and wharves, as well as to the buildings and machinery, and other property connected with them. It has charge, too, of the Naval Asylum.

2. THE BUREAU OF NAVIGATION has control of the Naval Observatory, Hydrographical Office, Naval Academy, and the issuance of the nautical almanac. It furnishes to vessels the maps, charts, chronometers, and such other appliances as are needed by the officers of the ships, and such books as are needed for the study of the improvement of navigation.

3. THE BUREAU OF ORDNANCE directs in the purchase or fabrication of cannon, guns, ammunition, and other military equipments of vessels of war.

4. The Bureau of Construction and Repairs attends to building and repairing the vessels and boats used in the naval service, and to the purchase of material therefor.

5. The Bureau of Equipments and Recruiting furnishes ships of war with their sails, anchors, water-tanks, and other equipments for sailing, and conducts the recruiting service for seamen and sailors.

6. The Bureau of Steam Engineering superintends the construction and repair of the engines and machinery for naval use.

7. The Bureau of Provisions and Clothing purchases the provisions and clothing for the navy.

8. The Bureau of Surgery and Medicine manages everything relating to the purchase, distribution, and use of medicine and medical stores, surgical instruments, to the treatment of the sick and wounded, and has charge of the marine hospital.

9. Naval Academy. This is located at Annapolis, Maryland, and is under the charge of a superintendent. In this institution, young men are trained for officers of the navy. Each member of the House of Representatives is entitled to nominate, for appointment, one person from his district. Each territory, and the District of Columbia, is also entitled to one, and the President may appoint ten at large. Candidates for admission must be between the ages of fourteen and eighteen years, physically sound, and possessed of a fair education in the common branches and in the elements of Algebra. The term of study and discipline is six years, during which time the student is drilled and instructed in all the discipline and learning deemed to be necessary to naval officers. The students

receive one ration a day, and five hundred dollars a year. The officers of the navy are appointed from the graduates of the Academy, and they are promoted in the line of seniority, usually, but ofttimes for meritorious deeds.

10. The Navy. The officers of the Navy consist of Admiral, Vice-Admiral, Rear-Admiral, Commodore, Captain, Commander, Lieutenant-Commander, Lieutenant, Master, and Ensign.

The vessels of the United States Navy are divided into four classes: —

(*a*) Vessels of the *first class* carry forty guns, or more, and are commanded by commodores.

(*b*) Vessels of the *second class* carry less than forty, and more than twenty, guns, and are commanded by captains.

(*c*) Vessels of the *third class* carry twenty guns, or nearly that number, and are commanded by commanders.

(*d*) Vessels of the *fourth class* are those of the smallest size, and are commanded by lieutenant-commanders.

The admiral has command of all the navy of the nation, and may command a fleet in person. In active service, a commodore often has command of a squadron, or even of a fleet; a captain may command a first-class vessel, or even a squadron; and other officers may hold command above their rank, as is done sometimes in the army.

The Navy Department has had at its head many men of high character, such as J. Crowninshield, S. L. Southard, James K. Paulding, Abel P. Upshur, George Bancroft, the historian, John P. Kennedy, Gideon Welles.

CHAPTER XV.

ADMINISTRATIVE DEPARTMENT. — Continued.

DEPARTMENT OF THE INTERIOR.

THIS department was not organized until 1849. Prior to that date, the various functions of government, now performed by that department, belonged to several of the other departments. The duties of the officers of this department are confined to matters of a domestic nature. There are several bureaus for the proper and systematic discharge of its duties.

1. THE COMMISSIONER OF PUBLIC LANDS is charged with the survey, management, and sale of the lands of the government and the issuance of patents therefor.

2. THE COMMISSIONER OF PENSIONS examines and adjusts all claims arising under the laws granting bounties or pensions for military or naval services.

3. THE COMMISSIONER OF INDIAN AFFAIRS has charge of all matters connected with the government of the Indians, whether in tribes or on reservations. Treaties are made with the Indians, their lands are managed, bought and sold, annuities paid, rations issued, trade conducted, through agents of this bureau.

4. THE COMMISSIONER OF PATENTS examines and passes upon all applications for patents for useful discoveries, inventions, and improvements.

5. THE COMMISSIONER OF AGRICULTURE obtains and preserves all information possible concerning agriculture,

whether obtained from books, correspondence, practical and scientific experiments, by collection of statistics, or by any other possible means, — collects seeds and plants, and tests them. He distributes information, seeds, and plants among agriculturists and others interested in that branch of industry.

6. The Commissioner of Education is directed to make investigations concerning the condition and progress of education in the several states and territories, collect information respecting the organization and management of schools, school systems, and methods of teaching. The statistics and other information collected is distributed to all those interested in education.

7. The Census is taken every ten years under the direction of this department, by a special officer appointed for that purpose, styled the Superintendent of the Census. He is appointed for the special census, and holds his office until the conclusion of the work, only.

8. The Superintendent of Public Documents keeps and distributes all the documents and other publications issued by the government for distribution. The laws provide for the proper distribution of them in such manner that they will be sent to such only as are interested in their contents.

Patents. — The inventor or owner of a new or useful art, machine, manufacture, or composition of matter, or improvement thereof, not known to, nor used by, others in this country, nor patented nor described in any printed publication in this or any foreign country, before the claimed invention, and not in public use nor on sale for a year before, may have a patent for the same. The applicant for a patent must send a written or printed descrip-

tion of the invention to the commissioner of patents. Such description must include the manner and process of making, constructing, compounding, and using the discovery in plain language, — the explanation and description to be so clear and plain as to distinguish it from all other things of a like nature, — drawings and models of machines to accompany description, if possible. The applicant must also swear that he believes himself to be the first inventor or discoverer of the article for which a patent is asked.

Upon the receipt of such application, the examiner of the office examines it and the drawings and models, and if the claim of the applicant appears to be just, letters are issued, granting to the person named the exclusive right to make, construct, compound, and to sell the article named, in the United States, for a period of seventeen years. Upon every article so patented, or upon its wrappings, and issued for sale under such patent, there must be legibly cut, stamped, moulded, or printed, as the case may be, the word "Patented" and the date of such patent. If, at the end of the seventeen years, the patentee can show that he has received no reasonable amount of remuneration from his invention, he may have his patent extended seven years. Notice of application for such extension must be published under the direction of the commissioner of patents.

Trade Marks. The patent office has charge, also, of the issuance of "trade marks." These are devices which are frequently adopted by manufacturers or dealers to mark the goods in which they deal, or which they make. Upon a proper application, with a full statement of the facts of the matter, a certificate will be issued and the

persons named will have, thereafter, for thirty years, the exclusive right to the use of such trade mark. The words "trade mark" must be used in close connection with the device adopted, in order to be a protection. At the expiration of the thirty years, the certificate may be renewed for another thirty years.

CHAPTER XVI.

ADMINISTRATIVE DEPARTMENT. — Continued.

DEPARTMENT OF THE INTERIOR. — *Continued.*

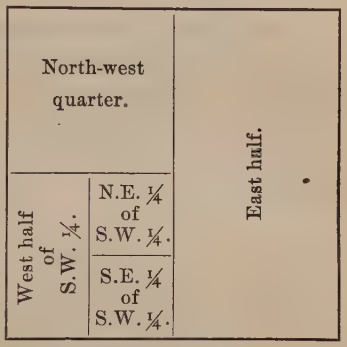
THE PUBLIC LANDS.

THE public land of the United States is divided into townships, which are six miles square, and contain thirty-six sections. Each section comprises six hundred and forty acres. These sections are subdivided into forty-acre tracts.

MAP OF A TOWNSHIP, showing how the sections are numbered: —

6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

MAP OF A SECTION OF LAND, showing how it may be subdivided or described: —

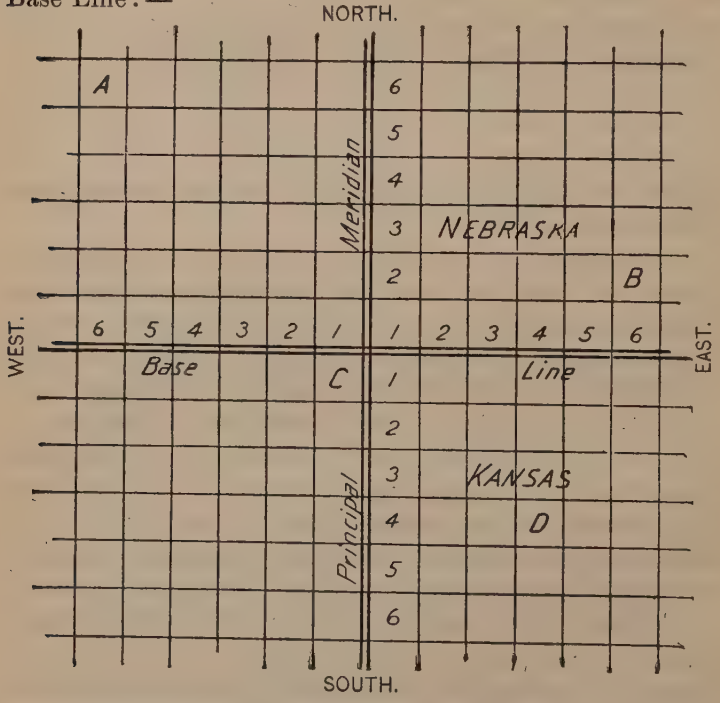


This division and description can be varied so as to describe the north half, the south half, or the west half; also, any other quarter, or half of a quarter, or quarter of a quarter. An eighty-acre tract may comprise the north-west quarter of the south-east quarter, and the north-east quarter of the south-west quarter, — so a quarter-section may be composed of the four central forty-acre tracts.

In making its surveys, the government establishes a base line, generally the line dividing states, and the townships are numbered north and south of this base line. Another line, sometimes a meridian, is taken, and the ranges are numbered, sometimes east, but generally west, of this line. A tract of government land is described as lying in such a township north or south of a named base line and in such a range east, or west, of such a meridian. As an example; the boundary line between the states of Kansas and Nebraska is a base line. The sixth principal meridian is the boundary line of the counties (in Nebraska) of Jefferson on the east, and Thayer on the west, running north through the state. In the state of Nebraska, all the land is numbered by range from that principal meridian. Land in the north-eastern township of Saline county would be described as in township eight, north,

and in range four, east of the sixth principal meridian, in Nebraska. In like manner, the land lying in the township in which is situate North Loup, in Valley county, Nebraska, would be described as in township eighteen, north, in range thirteen, west of the sixth principal meridian, in Nebraska.

Following is a chart showing how land is surveyed and described with reference to a Principal Meridian and a Base Line: —



A = township six north and range six west of the Sixth Principal Meridian, in Thayer County, Nebraska.

D = township four south and range four east of the Sixth Principal Meridian, in Washington County, Kansas.

1. Cash Sales. — The government disposes of the public lands in several methods. After they are surveyed, they may be offered for sale to the highest bidder for cash, so that the price is not less than the amount fixed by law, namely: $1.25 an acre for land outside the limits of the grants to railroads, and $2.50 an acre for land inside such grants. This method of sale has been abandoned in practice, although it is in force in the statute.

2. Pre-emptions. — The unsold land may be settled upon by the head of a family, man or woman, or by a single person who is twenty-one years of age. A pre-emptor must make actual settlement and occupancy, and must build a house upon it. Within thirty days thereafter, he must file a declaration of intention to purchase. He must occupy and improve the land continuously during one year, at the end of which time he must make proof of the occupancy and improvement, and pay for the land at the government price. The amount is limited to one hundred sixty acres to each pre-emptor.

3. Homesteads. — A homestead of one hundred sixty acres can be obtained without any payment, except for land-office fees, by any head of a family, man or woman, or by any single person who is twenty-one years of age, and who has never borne arms against the United States, nor given aid or comfort to its enemies. For this purpose a formal entry is made at the time of settlement. A residence upon, and improvement of, such land, continuously, during a period of five years, is necessary. Proof of such settlement and improvement must be made before patent can be issued.

4. Soldier's Homestead. — A special act of Congress was passed soon after the close of the late war of 1861–65,

by which the time during which a soldier or sailor served in that war with the Union forces, should be deducted from the five years required for residence. The soldier must so reside upon the land at least one year. Also, a declaration of intention to take a homestead under such act can be made six months before formal entry and settlement need to be made.

5. Timber-Culture Claims. — Any head of a family, man or woman, or any single person who is twenty-one years of age, may enter one hundred sixty acres of land without any payment, except for the fees of the land office. Land so entered must be free from timber of all kinds. In order to obtain title from the government, the person must cultivate the land during eight years, as follows: If the entry is one hundred sixty acres, he is required to break and plow five acres, the first year; during the second year, he must put into a crop or into trees the five acres already plowed, and must break and plow five acres more; in the third year, the land broken the first year must be set out to trees, or planted to timber seed, not less than twenty-seven hundred to the acre; in the fourth year, the other five acres must be planted in the same way. Thereafter, the trees must be cultivated so that, at the time of proving up, the ten acres shall contain not less than six hundred seventy-five living, thrifty timber trees growing upon each acre. Proof may be made at the end of eight years from the date of the entry, or within five years thereafter, and title received.

6. Other Lands. — There are provisions of law by which persons may obtain lands containing minerals, coal, stone, timber, desert lands, and saline lands, by making a definite amount of improvement, or by doing work to a certain amount thereon each year.

The homestead law is the only part of the land system now remaining, that is interesting to the average citizen. The rights to acquire lands by direct purchase, and under the pre-emption and timber-culture acts will soon be repealed. The acquisition of the other lands, last mentioned, cannot be made without more capital than the ordinary citizen possesses. The land for agricultural purposes must, hereafter, be acquired under the homestead act.

Among the men of great ability who have filled the office of Secretary of the Interior, may be mentioned Thomas H. Ewing, Alexander H. Stewart, James Harlan, Jacob D. Cox.

CHAPTER XVII.

ADMINISTRATIVE DEPARTMENT. — Continued.

DEPARTMENT OF THE POST-OFFICE.

THE officer at the head of this department is called the Postmaster-General. He has control of all matters connected with the management of the post-offices of the nation, the carrying of the mail, both domestic and foreign, and the appointment of postmasters whose salaries are less than one thousand dollars per year. The Postmaster-General has three chiefs of bureaus, styled Assistant Postmaster-Generals, besides other subordinate officers.

1. THE FIRST ASSISTANT POSTMASTER-GENERAL has charge of the appointment-office, and attends to the establishment and discontinuance of post-offices, changes of sites and of names, appointment and removal of postmasters within the jurisdiction of the department, and of local agents. He also attends to the supplies of stamps and balances, blanks, and stationery for the service. He supervises the ocean mail steamship lines, and the foreign and international postal service.

2. THE SECOND ASSISTANT POSTMASTER-GENERAL is at the head of the contract-office. He manages the mail routes, places them under contract, determines the trips, conveyances, departures, and arrivals on all mail routes, the points of distribution, and the regulations for the government of the domestic mail service.

3. The Third Assistant Postmaster-General is the head of the finance-office. He supervises such financial business of the department as is not devolved upon the Sixth Auditor of the Treasury, embracing accounts with draft-offices and with other depositories of the department, issues warrants and drafts in payment of balances due contractors, and inspects returns and balances of postmasters. He also issues stamps and stamped envelopes, and has charge of the Dead-Letter Office.

4. The Superintendent of the Money-Order System makes all the rules and regulations concerning the issuance of money orders and postal notes, and prepares and issues all the blanks for that system.

5. The Assistant Attorney-General is a law-officer attached to this department to give advice concerning the construction of statutes, to dictate the forms of contracts, and to prosecute suits against contractors and others.

6. The Foreign Service. The United States has postal treaties with nearly all the organized nations of the world, certainly with all the civilized nations, by which there are regular mail routes established between them and the United States for the transmission of mail for the citizens of all those countries. The rates of postage are considerably in excess of those charged upon mail matter in the United States, and are not the same with the several nations.

7. The Money-Order System. By this system, a person may deposit money in one post-office and have it paid to any one named at another post-office. The system is similar to that by which money is sent by bank-drafts. The charge for such service is very light, from three cents to twenty-five cents. The money orders are limited in

amount to fifty dollars, and no person can obtain more than three orders in one day. A postal note is a similar device for sending money, and is restricted to sums less than five dollars, for which a charge of three cents must be paid. The postal note is drawn upon the post-office of a place named, or upon any office generally, and is payable to bearer. Unused money orders and postal notes can be cashed at the office where drawn.

8. Letter Registry. A person may have a letter or other mail package registered for a fee of ten cents additional to the regular postage thereon. Some security to valuable packages is added by this system, as the postal messenger receipts for all packages carried by him, and a lost package may be traced with some prospect that it can be found. Comparatively few registered packages are lost.

9. Immediate Delivery. If the sender of a letter desires the letter delivered at once upon its arrival at the office of destination, he can attach to the letter an "immediate delivery stamp," costing ten cents, and it will be delivered by special messenger, within a mile of the post-office. This system is a recent one. It was tried, at first, at the larger offices, and has lately been extended to all the post-offices.

10. The Dead-Letter Office is a device by which letters, not taken by those to whom sent, may be returned to the writers. In all offices, all letters unclaimed at the end of a week are advertised. If not then claimed at the end of four weeks, they are sent to the Dead-Letter Office at Washington. All letters put into a post-office, unstamped, or not properly addressed, and unreclaimed, are sent to the same office. At the Dead-Letter Office, these

letters are opened by confidential clerks. Such of them as contain valuables, or are of such a nature as to make it desirable for their return to the writers, are so returned, at the expense of the department, if the writer's name and address can be ascertained from the letter. The office annually finds vast numbers of letters, containing valuables or money, and yet without signature or other clue so as to make a return possible. Even in such cases, efforts are always made to find the writers and to return the letters.

11. POSTAGE. The rates for postage in the United States are as follows: (*a*) On letters, or written matter sealed, two cents for one ounce or fraction thereof. (*b*) On printed matter issued regularly, mailed by the publisher, one cent a pound. (*c*) On miscellaneous printed matter, one cent for two ounces or fraction thereof. (*d*) On merchandise, not exceeding four pounds, one cent an ounce. Number (*b*) is payable by cash, all the others by stamps affixed to the mail matter.

The office of Postmaster-General has been filled by many men of national renown, among them Samuel Osgood, Timothy Pickering, Return J. Meigs, Amos Kendall, Jacob Collamer, Joseph Holt.

CHAPTER XVIII.

ADMINISTRATIVE DEPARTMENT.—Continued.

DEPARTMENT OF JUSTICE.

THE head of this department is the Attorney-General. He is the law-adviser of the government. By law, he is made superintendent of the attorneys and marshals in all the judicial districts. He has three Assistant Attorney-Generals and a Solicitor-General, to aid him in the details of his duty. The business of this office may be classified as follows: —

1. TO GIVE OFFICIAL OPINIONS upon the current business of the government, whenever called for by the President, by the head of any department, or by the Solicitor of the Treasury.

2. TO EXAMINE AND ADVISE concerning applications for pardons, reprieves, and commutations of sentence for offenses against the laws of the United States.

3. TO EXAMINE APPLICATIONS for appointment to judicial and law-offices.

4. TO EXAMINE TITLES to the lands purchased for government business, and the bonds given by public officers.

5. TO CONDUCT AND MAKE ARGUMENTS in the Supreme Court of the United States, in all suits wherein the government has any interest, and in other courts where the interests of the government is so important as to justify it.

6. To ATTEND TO OTHER SUITS, arising in any department, when requested by the head of such department.

Some of the most eminent lawyers of the nation have held the office of Attorney-General. Edmund Randolph was the appointee of Washington. Since then, the office has been filled by Judge Parsons, of Massachusetts, Cæsar A. Rodney, William Pinckney, William Wirt, Felix Grundy, John J. Crittenden, Reverdy Johnson, Jeremiah S. Black, Caleb Cushing, William M. Evarts, Ebenezer R. Hoar, and others.

CHAPTER XIX.

MISCELLANEOUS.

Naturalization. — An alien white person, an African, or person of African descent, may become a citizen of the United States. At any time after arrival, he must declare his intention to become a citizen and to renounce all former allegiance to any other government, and swear to support the constitution and laws of the United States. This must be done in writing before a clerk of a court having a seal. This declaration must be made at least two years before he can receive his final papers. After having resided in the United States five years, he may be admitted to full citizenship by appearing before a court of record, in public session, and formally renouncing allegiance to all other governments and taking the oath of allegiance to the United States. In order to be so admitted to full citizenship, he must be a man of good moral character, must be attached to our form of government, and must be well-disposed to good order and to the well-being of this government. Such aliens of the above description as have an honorable discharge from the army or navy for service of one year may be admitted to full citizenship without any preliminary declaration of intention, and need not prove more than one year's residence. Aliens arriving here while under eighteen years of age may be admitted to full citizenship after five years' residence, without any

first papers. The widows and children of such aliens as have taken out their first papers, and who died before being admitted to full citizenship, become full citizens without farther formality. Children under twenty-one years of age, of naturalized persons, become citizens with their parents. No citizen, subject, or denizen of a country with whom the United States may be at war can be admitted to citizenship, or even file his declaration of intention to become such. Persons who have made their declaration of intention to become citizens, and who serve three years thereafter in the merchant-marine of the United States, are admitted to citizenship without longer residence. In some of the states, aliens cannot vote until admitted to full citizenship, and in other states they may vote at once after they have declared their intention to become citizens.

Copyrights. — This is an exclusive privilege, reserved to any citizen or resident of the United States, to print, publish, and sell, any book, map, chart, engraving, painting, drawing, photograph, dramatic performance, or musical composition, of which he is the author, engraver, designer, inventor, or owner. The object is to encourage authors and to furnish them the means of securing compensation for their work. This they could not secure if any one could reproduce and sell the products of their labor or of their genius without payment. A copyright carries the right of ownership, and may be bought and sold like other personal property. It must be conveyed by writing, a copy of which must be filed in the office of the Librarian of Congress. In order to obtain a copyright, a copy of the title of the publication must be sent to the Librarian of Congress before publication. Within ten days after publication, two copies of the publication itself must be sent

to the Librarian of Congress. These two filings will cost one dollar. A copyright extends for twenty-eight years, and may be extended fourteen years longer. In order to secure the full right granted by the copyright, a notice, similar to that published on the fly-leaf of this volume, must be printed in, or on, every copy of the publication copyrighted.

Smithsonian Institution. — In 1829, James Smithson, an Englishman, died. By his will, he bequeathed to the United States a sum amounting to $515,169, for founding an institution for the "increase and diffusion of knowledge among men." In 1846, Congress accepted the bequest and incorporated the Smithsonian Institution. It is located at Washington, and is largely under the direction of Congress. The incorporators were the President of the United States, the Secretaries of State, Treasury, War, and Navy, Postmaster-General, Attorney-General, the Chief Justice of the Supreme Court of the United States, the Mayor of the city of Washington, and the Commissioner of Patents.

The immediate directors of the Institution are the Board of Regents, constituted as follows: the Vice-President of the United States, the Chief Justice of the Supreme Court, three members of each house of Congress, two unofficial residents of the city of Washington, and four other citizens of the United States, of which no two shall be citizens of the same state. The President of the Senate appoints the three senators who serve during their term of office as senators, and the Speaker appoints the three members of the House, who serve two years. The Chief Justice is the chancellor and presiding officer of the Board of Regents.

The Institution has received and has charge of all the government collections in mineralogy, geology, natural history, botany, and its specimens of the arts and of foreign and curious research. It receives contributions from other sources, also. These collections are said to constitute the largest and best series of minerals, fossils, rocks, animals, and plants of the entire continent of America, in the world. The Institution issues publications devoted to scientific discoveries and discussion, contributed by scientific men of America and of other countries.

INTER-STATE COMMERCE.

In 1887, in pursuance of the powers given by Art. I., section 8, sub. div. 3, of the Constitution, Congress passed the so-called Inter-State Commerce Law, and authorized the appointment of a commission thereunder. The commission consists of five persons appointed by the President and confirmed by the Senate. It is charged with the duty to administer and enforce the provisions of the law, and has authority to suspend some of its provisions for good cause. It collects information about the management, cost, expenses, earnings, debts, and other facts bearing upon railroads and other inter-state commercial agencies. One aim of the law seems to be to prevent discrimination for or against persons, towns, or cities, and to prohibit pools and other combinations among railroads. The phraseology of the law is not free from doubt, and the scope and extent of the authority of the commission is not wholly clear.

Section 1 of this law declares that "all charges shall be reasonable and just; and every unjust and unreasonable charge is prohibited, and declared to be unlawful."

Section 2 defines an unjust discrimination, as the charging any persons different amounts for a "like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions."

Section 3 declares it unlawful "to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever." These three sections are, in effect, a declaration and enactment of the common law.

The intent of the law is to remove the many and manifest abuses that had grown up in connection with the carrying trade of the country; to secure to each shipper of goods all the rights and privileges had and enjoyed by any other; to prevent favoritism among passengers, whereby many were allowed to ride nominally free, but really at the expense of the paying passengers. Also to put an end to the injustice by which goods were carried long distances to favored competing points, or for a favored shipper, for the same or even a less sum than they would be carried but a moderate fraction of the distance to a non-competing point, or for a shipper not favored. To abolish the whole system of rebates which favored some shippers at the expense of others, thus enabling the favored ones to undersell in the market, and gradually but surely to drive out all competition.

It may not be within the power of this or any other law to wholly prevent the building up of monopolies, and to

block the way of the speculative and unscrupulous to undue advantages; but its aim and tendency are toward free competition, and a fair and just tariff of charges for services rendered, without respect to person or place.

The enforced publicity of the tariff of charges is a long stride toward equality of payments. Growing as the law did out of undoubted abuses of power on the part of transportation companies, the restrictions upon their unlimited power were required in the public interest. It became necessary that public authority should proclaim and enforce the rule of equal treatment as a fundamental doctrine.

Publicity of tariffs, and openness of agreements between the companies and all shippers, will tend to make secure uniformity of rates and of treatment. Public accountability is strongly conducive to strict impartiality, while it is also a foe to duplicity and favoritism. The responsibility of the companies to a public tribunal is promotive of a healthy public opinion, and conducive to much-needed reforms.

CHAPTER XX.

JUDICIAL DEPARTMENT.

THE student may have already learned, in the study of state governments, the need of a judicial department. There could be no good government without it. It may be called the balance-wheel, or regulator, of the government. The constitution provides for such a department for the national government.

I. The Supreme Court. — The constitution names and establishes this court and authorizes Congress to add such other, and inferior, courts as may be needed. The Supreme Court consists of a Chief Justice and eight Associate Justices.

JURISDICTION. This court has original jurisdiction in all cases that affect ambassadors, and other public ministers and consuls, whether they are in the service of the United States or of any other government, and in cases in which any state may be a party. In all other cases, suits must be begun in one of the inferior courts, and be brought to this court, by appeal, or by one of the other methods provided by law. Suits, in the state courts, involving a construction of the constitution of the United States, or of any of the laws or treaties made thereunder, may be appealed to this court.

II. Circuit Courts. — The whole of the United States is divided into nine circuits. In each circuit, one of the Justices of the Supreme Court holds court, and is assisted

by a judge, appointed by the President, and called a Circuit Judge. In fact, the Circuit Judge does most of the business in this court.

JURISDICTION. This court has original jurisdiction in civil suits wherein the amount of property involved is five hundred dollars, or more, and in all cases of crime against the United States. It has appellate jurisdiction in all civil cases, involving five hundred dollars or more, tried in the District Court.

III. District Court. — Each circuit is divided into a number of districts, so that each state shall constitute at least one district, and the larger states comprise two or more districts. In each district is a judge, appointed by the President, and called a District Judge. He presides in the District Court, alone or with the Circuit Judge.

JURISDICTION. The District Court has jurisdiction in all cases, civil or criminal, not required to be brought in the higher courts.

Any Justice of the Supreme Court, in his circuit, and any Circuit Judge, in his circuit, may sit at the trial of any cause, in any court inferior to his own, alone or with the inferior judge, and may render judgment in the same manner and with the same effect, as may be done by the judge of that court. The District Judge may sit in the Circuit Court, in his district, and try causes, in the absence of the Circuit Judge. All the judges are authorized to exchange with one another when needful. There are nine judges of the Supreme Court, nine Circuit Judges, and fifty-six District Judges.

IV. Supreme Court of the District of Columbia. — This court consists of a Chief Justice and five Associate Justices. It has about the jurisdiction of the District

Courts of the United States, but the causes of action must arise in the District of Columbia. Appeals are taken from this court to the Supreme Court of the United States.

V. Court of Claims. — This court is established at Washington, and is constituted with a Chief Justice and four Associate Justices. It has jurisdiction to hear and determine claims against the United States. It does not hear *all* claims against the government; but such claims, only, as have some foundation of law to rest on. Claims, founded upon any law of Congress, or upon any regular order of the President, or of the head of one of the departments, or upon any contract with the government, if the officer making the contract had any authority to make it, may be presented to this court and heard. Congress often refers to this court, for decision upon disputed facts, the claims of paymasters, quartermasters, and other disbursing officers, as well as other claimants where the grounds of relief are not free from doubt. Congress usually makes an appropriation to pay the awards rendered by this court.

VI. Territorial Courts. — Each territory is provided with a court, consisting of a Chief Justice and two Associate Justices, appointed by the President. The jurisdiction of the territorial courts extends to cases arising within the territory, under the laws of Congress and of the territories, and appeals are taken to the Supreme Court.

VII. Officers of the Courts. — The Attorney-General is the official representative of the government before the Supreme Court. He is usually represented by one of his assistants. This court has a clerk to record its proceedings, and a reporter to publish its decisions. Each Circuit

Court has a clerk to keep the record of the business done. These courts have no authorized reporter. Decisions of these courts are published, either by the judge who renders them, or by some attorney of the court under the judge's sanction. Each district also has a clerk, and decisions are published in the same manner as by circuit courts. In each district there is a District Attorney, appointed by the President. He is to represent the government in all criminal prosecutions, and in all circuit cases in which the United States has an interest.

This court has a marshal, also, who enforces the decrees, or judgments of the court, and performs services similar to those performed by sheriffs in state courts. The District Attorney and Marshal act for the Circuit Court within and for their district. Each Territorial Court, and the Court of the District of Columbia, also, has a district attorney, marshal, and clerk. All these courts, except the Supreme Court, the Court of the District of Columbia, and the Court of Claims, have grand juries and trial juries, who perform duties the same as those of state courts, of which the student may have already learned.

VIII. Terms of Service. — The judges of all the courts are appointed by the President, and confirmed by the Senate. They hold their offices during life, unless they resign, or are dismissed by impeachment; except territorial judges, who serve four years unless sooner removed. It is thought that judges who hold by so firm a tenure as that will be more independent in the discharge of their duties, will be more disposed to hold to the law and to the right, without regard to public opinion or to the pressure of politicians; whereas, judges elected, or appointed for short terms, will be liable to try to please

the appointing power, and will be less independent. For the same reason, the constitution provides that their salaries cannot be diminished during their terms of service. Thus, they have no reason to fear popular clamor or any displeasure of Congress. The District Attorney and Marshal are appointed by the President and Senate, and they hold their offices for four years, but may be removed at any time by the President. The clerks are appointed by the judges, and hold their offices during the pleasure of the judges.

IX. Trials. — The methods of trials in the courts do not differ greatly from what the student may have already learned on this subject. The methods used in the state courts are the same, substantially, as those used by the courts of the United States. The fifth amendment to the constitution provides for indictment by a grand jury in all criminal cases. The process of selecting the grand jury is somewhat different from that employed for obtaining the grand juries of state courts, but the duties of the two bodies are the same. Article III. of the constitution provides that the trial in all criminal cases shall be by a jury, except in cases of impeachment. This exception is practically extended to such violations of the articles of war, adopted by Congress for the government of the army and navy, as amount to crimes. Such crimes are tried by courts-martial, composed of officers of the service.

CHAPTER XXI.

JUDICIAL DEPARTMENT.— Continued.

X. Jurisdiction of United States Courts. — The word "jurisdiction" has been used frequently, and it is time to define it. It is formed from two Latin words, "jus," *a right*, and "dictio," *a speaking*. Together they mean a speaking by right, or the right of speaking. When applied to courts, the new word means a right to hear and to decide a case. Courts do not have a right to hear and to decide any suit that may be brought to them. The business of courts would be much mixed up if they had that right. There is as much need for order and system in the practice of courts, as in the proceedings of Congress or in conducting a business enterprise. For this reason some courts are authorized to try petty cases only, small cases, such as under a state government may be tried by a justice of the peace. Some courts cannot hear suits relating to some subjects, as, in the states, probate matters are confined to one class of courts, and some of the courts cannot try cases involving title to real estate. Other courts can entertain such suits only as arise under certain laws. State courts can have power to try such suits only as arise or grow out of the constitution and laws of that state. So the courts of the United States should be, and are, authorized to try such suits only as arise or grow out of the constitution, laws, and treaties of the United States; they can try such suits only as the constitution permits

them to try. There are nine classes of cases which the constitution directs the courts of the United States to entertain.

1. All cases, in law or equity, arising under the constitution, the laws of the United States, or of treaties made under their authority. If the laws are passed, and the treaties are made, under the authority of the constitution, then all cases arising under those laws and treaties arise under the constitution. Whenever the proper construction or interpretation of any part of the constitution, or of any law, of the United States, or treaty between the United States and a foreign nation, can be called for, or is needed, in a suit, that suit arises under the constitution, laws, or treaty of the United States, and can be brought in the courts of the United States.

If such suit should be brought in a state court, it can be transferred to the courts of the United States, as soon as that fact appears to the court. It would not be wise for the general government to permit the state courts to decide upon the meaning of the constitution or laws or treaties of the United States. A sovereign nation must be its own judge of its duties. It must not submit the interpretation of its own laws to the arbitration of any other power. Besides, all such construction or interpretation as determines the meaning of the constitution, laws, or treaties of the United States should be uniform, and be based upon the same principles. This can be only when one court gives the construction. It is not possible to suppose that the supreme courts of thirty-eight different states, many of them with directly opposite interests, could agree, independently, upon the same construction of the laws or constitution of the United States. It is cer-

tain that they would not agree. People guide their actions so as to conform with the law of the land in which they reside, and the decisions of the courts have the force and effect of law. With different constructions of a law, given by courts in different parts of the country, people would be at a loss to know how to act. The constitution and laws of each state are construed by the supreme court of that state for the guidance of the citizens of that state, and of all interested; and the constitution, laws, and treaties of the United States are construed by the Supreme Court of the United States for the guidance of its citizens, and of all interested in them.

2. Ambassadors, other public ministers, and consuls are accredited by one nation to another, and are, by usage, if not by treaty, placed under the protection of the government to which they are sent. For this reason, the courts of the United States must have exclusive jurisdiction over all suits in which such persons are interested. The words of the constitution apply to all officers, whether in the service of the United States or of a foreign country accredited to the United States.

3. European nations bordering upon the ocean or the great seas have always had courts that had exclusive jurisdiction of suits arising from ships and seamen. As ships of war, in England, were under the command of an admiral, the courts that tried suits arising from war-ships were called courts of admiralty, and the courts that tried suits arising from merchant-ships were called maritime courts. As we have seen heretofore, the boundaries of states stop at the edge of the ocean, as do also their jurisdiction, while the boundaries and jurisdiction of the United States extend far into the water. Thus, all ships, even

though belonging to citizens of states, or of foreign nations, while near the coast, on the ocean, or "high seas," as it is often called, are within the power of the United States, and the courts of the nation are given exclusive jurisdiction over them and over any property which they may contain.

4. As a sovereign nation cannot permit another nation to determine its duties for it, nor to construe its laws, so it cannot permit an inferior or subordinate power to do so. The states are inferior, and, in great measure, subordinate, to the United States, and the courts of the states should not be allowed to sit in judgment upon the interests of the nation. All cases, therefore, in which the nation has any interest, must be tried in the United States courts.

5. When two nations, equal in authority and dignity, disagree, neither one should have the right to settle the disagreement; the matter of disagreement should be, and usually is, left to the decision of some third power, supposed to be friendly to both. So, when two states are involved in a suit, the courts of neither one should have the right to decide. As both states are equal in authority and dignity, and as the United States is supposed to be equally friendly and impartial to both, there is reason in the provision of the constitution by which the courts of the nation take jurisdiction and decide.

6. For the same reason, as stated in the fifth paragraph above, the courts of the United States decide all cases between states and citizens of other states. The words of the constitution, as originally adopted, were construed by the Supreme Court to mean that a citizen of one state could sue a state in the United States courts. As this construction was inconsistent with that (*even restricted*)

grade of sovereignty claimed by the states, an amendment was adopted in 1798 (Art. II), prohibiting suits of that nature.

7. For reasons stated above in the last two paragraphs, suits between citizens of two states are tried in the courts of the United States.

8. Before the adoption of the constitution, several colonies had made grants of land lying in the districts claimed by other colonies. In some instances, the same land was granted by two colonies to different persons. It was thought very probable that the courts of the states making the grants would sustain the action of their states, which might result in serious complications of titles. The constitution, therefore, wisely provides that in cases of such double grants, the courts of the United States shall have exclusive jurisdiction, even though all the parties interested reside in one state.

9. Following out the reasons stated in the last four paragraphs, the constitution provides that in all cases between states, or citizens thereof, on the one side, and any foreign state or any citizens or subject thereof, on the other side, the courts of the United States shall have jurisdiction.

XI. Territorial Jurisdiction. — The courts of the several territories have jurisdiction to try all cases that arise within the territory under the laws of their respective territories, as well as in the other cases mentioned in the list treated of above. In the District of Columbia, the court of that district has jurisdiction of such cases only as arise within the district. The District Courts are confined, in their jurisdiction, to cases arising within the limits of their districts. For instance, in the district of

Rhode Island, all cases that arise in that state must be tried in the District Court of Rhode Island. In Iowa, cases arising in the southern half of the state must be tried in the District Court of the southern district of Iowa, and those arising in the northern part of the state must be tried in the District Court of the northern district of Iowa. The Circuit Court cannot have jurisdiction of any case that arises outside the limits of its circuit.

So, appeals from a District Court to a Circuit Court are taken to that court in whose circuit the District Court is situated. All this is the positive command of the constitution, with respect to trials for crimes. The laws of Congress apply the rule to civil cases. It is best that all cases should be tried as near as possible to the place where they arise, so as to avoid the expense of taking witnesses and parties great distances. In criminal trials it is especially important, for the accused ought to be tried in a locality where he may have friends to help him, and where his witnesses can be secured without great expense. It has already been shown that this is a right guarantied by the constitution. In each district a town or city is designated by law for the sessions of the District and Circuit Courts for that district. There the court records are kept, in a building usually erected by the government.

XII. Impeachment. — The trial by impeachment is a judicial act, although it is performed by the legislative branch of the government. The constitution declares that the President, Vice-President, and all the civil officers of the United States shall be removed from office by impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors. The members of Congress are not included in the list of civil officers; they

can be removed from office only by the vote of two-thirds of the house to which each belongs. The "high crimes and misdemeanors" of which a civil officer may be convicted by impeachment includes all the more serious offenses named in the list of crimes; misdemeanors are the terms by which the less serious offenses are known. In addition to these may also be reckoned offenses of such a nature as make them unfit for the discharge of the duties of their offices: some of these are political, and some are moral. There is no rule declaring what is, and what is not, an impeachable offense.

IMPEACHMENT. The House of Representatives impeaches, and the Senate conducts the trial. The methods and proceedings in impeachment are usually as follows: A member of the House introduces a resolution which declares that such an officer, naming him, ought to be impeached and tried for crimes which the resolution specifies in general terms or in detail. Or, a resolution may, in like manner, be introduced, instructing a committee named to examine and to report if such an officer should not be impeached and tried for crimes named. In either case, if the House agrees to the resolution, it is sent to a committee, usually to the Judiciary Committee. The committee makes an examination of the facts and of the law, and if it finds a cause for impeachment, it so reports to the House, at the same time presenting articles of impeachment against the officer. These articles set out fully, very much after the manner of an indictment in a court of law, all the details of time, place, and other circumstances of the offense. If these articles are adopted by the House, they are sent to the Senate. This body then resolves itself into a Court of Impeachment, and summons the

officer named to appear and to plead to the articles. The articles are presented by a committee selected by the House, and called Managers, who conduct the prosecution on behalf of the House.

THE TRIAL is conducted very much like an ordinary law-suit. The Senate is the judge at the same time that it is the jury. When the President is on trial, the Chief Justice of the Supreme Court presides. In other trials, the ordinary presiding officer of the Senate acts. Testimony is taken on both sides if desired, and addresses are made by the managers and by the attorneys for the defendant officer. The senators give their votes, with or without a statement of their reasons. Their reasons may be given orally or in writing. Two-thirds of all the members of the Senate must vote for conviction in order to convict.

The judgment of conviction cannot extend beyond removal from office, and a disqualification to hold any office of honor, trust, or profit, under the constitution forever. The President has no power to pardon, reprieve, or commute the sentence. If the crime for which the officer is impeached is also a crime against the ordinary law of the land, he is still liable to be tried and convicted as an ordinary criminal for the offense, whether he is convicted or not on the articles of impeachment.

CHAPTER XXII.

RELATIONS OF THE STATES.

THE state has sole authority in all its own local affairs. The state government provides for the organization of counties, cities, and school districts, and it may repeal such provisions and make new ones at its pleasure. All the machinery for the government of the states is the creation of the people of the whole state, acting as a unit. The state must exist before the counties and other subdivisions of a state can exist. Neither towns, cities, nor counties have any rights of self-government except what are given to them by the constitution or by the laws, and such rights may be withdrawn by the state. The organization of the national government is upon a different plan. Before the formation of the constitution, there were thirteen colonies, each independent of each other, each possessing a right to self-government in all respects. The Articles of Confederation professed to place some restrictions upon these rights, but such restrictions existed only on paper. Upon the formation of the constitution, there was reserved to the states then forming the new nation, and to other states that might thereafter come into the union, a portion of the rights which each of the colonies had possessed. These rights, so reserved, were, as we have seen, such as relate to local affairs. The wider affairs, dealing with foreign nations, providing for, and attending to, the common welfare, were given into the keeping of

the national government. Nearly all the rights reserved to the states, and nearly all the authority granted to the general government, are enumerated in the constitution. We have found that certain authority was given to Congress, and certain power prohibited. In our farther study of the form of the government, we shall find that there are prohibitions upon the states and prohibitions upon the general government. The result of all the provisions of the constitution is that the general government is independent and supreme in all the relations of the nation with other nations, and in all matters that affect the people of two or more states or of all the states equally, with power to decide upon the extent of its own authority and to enforce its own decisions. Inside this general government are thirty-eight smaller governments, independent of each other, and of the general government in all matters of reserved rights in local affairs. The extent and limitations of this independence are largely within the determination of the general government. It will be seen, hereafter, that two-thirds of the states may change the character and extent of this independence, at pleasure, except in one particular. In that one respect, it requires the unanimous assent of all the states.

Prohibitions upon the States. — As we have seen that all powers not granted to the United States, nor expressly prohibited to the states, are reserved to the states or to the people thereof, we come now to consider the powers that are expressly prohibited to the states.

1. ALLIANCE. By the terms of the constitution, no state can enter into any treaty, alliance, or confederation. In another portion of the constitution, the power to make treaties is conferred upon the President and the Senate.

A treaty is an agreement between two independent states concerning any matter that affects them both, — usually applied to those matters of mutual interest touching trade or the intercourse of citizens. An alliance is a contract to act together, in case of war, or of threats of war. A confederation is a union of two or more governments in such manner that all act together under one government, yet retaining separate sovereignty over some matters as agreed upon. These are powers that could not be permitted to the states with safety to the nation. The theory of the government is that the nation is supreme, and to which the states, as organizations, are subordinate. The power to make treaties and alliances has already been conferred upon the national government, and this is a power that could not be granted at the same time to the states. There would be danger that the treaties and alliances might conflict one with another. There can be but one supreme power in a government. Besides, the treaties and alliances which the individual states might make would naturally be such as would be for the apparent interest of the people of the states making them, at the same time that they might be adverse to the interests of the people of other states, and of the whole nation at large. The student can see that such a state of affairs would not be endurable.

But this prohibition goes beyond a denial of the right of a state to make a treaty, alliance, or confederation with foreign powers. It is also a prohibition upon their power to make treaties, alliances, and confederations with one another or among themselves. Under the terms of the constitution, and the peculiar organization of the general government, there could be no oppression of any state, or

class of states, except by an alliance of other states. The general government looks after the interests of all. There would be no necessity for an alliance of any of the states for protection against the others or against the United States government. It would be manifestly improper for states to form alliances against one another when the interests of all should be identical. The government could not exist if alliances were allowed to be formed against the general government. The framers of the constitution thought that occasions might arise which would render this prohibition upon the states undesirable. The same article empowers Congress to remove the restriction, and to permit such alliances. Whether Congress could, by general laws, abrogate this constitutional provision so as to allow unlimited permission to the states in this matter, may well be doubted. It is more probable that each case of such alliance would have to be presented to Congress, accompanied by a full statement of the reasons making its consent proper. No such consent has ever been given so far in the history of the nation. [Art. I., sec. 10.]

2. War. In considering the powers given to Congress, we have found that the constitution confers upon Congress the power to declare war, to issue letters of marque and reprisal, to raise and support armies, to create and maintain navies, to organize and call forth the militia, and to make all the rules and regulations needed for the government of the armies and navies, for disciplining and arming the militia, and for disposing of the captures by land and water. All these powers belong to the war-making power. They must belong exclusively to one department of a government. If they belong to the national government, they must be withheld from the state

governments. The power to make war, and to do the other acts leading to war, are expressly prohibited to the states. Under certain circumstances, and with certain conditions, the constitution allows states to keep troops and ships of war in time of peace, and to engage in war. To these Congress may give its consent. It might happen that a border state might be so menaced by an unfriendly neighboring power that its safety and peace would be increased by the formation of an army from its own militia, in such manner as to be less expensive than the keeping of a standing army by the nation upon its frontier. The consent of Congress to that state of affairs is allowed by the constitution. If actually invaded, or if in such danger of attack by a foreign power as would make delay dangerous, a state has the right to engage in war. As soon as the danger is passed, or as soon as the general government has time to bring its army to the defense of the state attacked, the state troops will then be withdrawn, or be held in service under the command of the nation. [Art. I., sec. 10.]

CHAPTER XXIII.

RELATIONS OF THE STATES.— Continued.

3. MONEY. The states cannot emit bills of credit. These are notes intended to be used as money. The "greenbacks," issued by the national government, are bills of credit as meant by the constitution. This authority is given to Congress. If each state should be allowed to issue these bills at pleasure, there could be little, if any, security that the amount would not exceed the demands of business. The power to issue these bills is an important power, and its exercise has great influence upon all departments of business, and the authority to issue them should be confined to one department. For the same reason, too, the states may not compel the citizens to receive, as money, anything but gold or silver. The business of the United States is so intimately connected, organized upon the theory that the United States is one nation, and that the states are but parts thereof, that there could be no regularity in that business if the currency should be based upon different values in different states. In one state, whose credit was good, a paper dollar might be worth its face value; in another state, whose credit was not good, the paper dollar might be worth but fifty cents. Such irregularity in currency would seriously affect business. If we are one people, we must have but one currency, and that must be based upon actual values, and all be regulated by one central authority. [Art. I., sec. 10.]

4. Impairing Contracts. In treating the Bill of Rights, we have seen that neither the government of the United States nor of any of the states can pass a bill of attainder, or an *ex post facto* law. There is a farther provision, in favor of justice, that no state can pass any law impairing the obligation of a contract. A contract is an agreement to do or not to do a thing named. The obligation of a contract is understood to be that duty of performing it which is recognized and enforced by the law. If the laws can be changed after a contract is made, so as to release one of the parties to the contract from the duty of performing his part of the agreement, the obligation of that contract is impaired. A law is plainly unjust that would deprive a contractor of the right to enforce it, or that would so change the remedy as to make the right worthless. When a contract is made between A and B, the property then occupied by A, as a homestead, is liable to be taken for the payment of his debts, under the law, and he has no other property. Afterwards, and before the maturity of the contract, the law is changed so that the property occupied by A would not be liable for such a debt as that contract would create. If that law could be applied to the contract between A and B, and then deprive B of any probability of collecting his debt from A, that would be a law impairing the obligation of a contract. It would be a very unjust law that would work hardship to those affected by it. It would not be often that a legislature would intentionally pass a law impairing the obligation of a contract, but laws are often drawn very carelessly, and have a meaning not contemplated by the legislature. Courts construe laws by the usual meaning of the words, and not by the intended

meaning. Most of the states have a constitutional provision of the same character as this prohibition, and their own courts would declare any such law void. [Art. I., sec. 10.]

5. NOBILITY. It has already been shown that the United States cannot grant titles of nobility (page 116). There is more reason why the states should be deprived of that power. Titles of nobility create classes, or distinctions of rank, based on other foundations than that of merit or character. Such distinctions of classes create an aristocracy, which is inconsistent with a republican form of government, wherein all the citizens have equal rights and privileges under the laws. [Art. I., sec. 9.]

6. TAXES AND DUTIES. The power to levy impost duties has been given to Congress, and the revenue collected from importations is expended for the benefit of all the people of the nation. But the importations enter at a very few ports. If each state was allowed to levy a duty upon all goods entering that state, and to apply the revenue so derived to its own benefit, a few states would receive most of the benefit from such importations. These inequalities could not be satisfactory to the people of the other states, and would not be just. Besides, such a condition of affairs would create rivalry among the states, and cause a decrease in the rates of duty, and also compel the levy of a duty on goods brought from one state into another. Such duties, in a nation, ought to be uniform, and ought to be collected by the general government for the benefit of the whole nation.

But the people of each state are especially interested in the sanitary condition of its ports, more interested than the people of other states in keeping out unhealthful

goods and unhealthy people. For the purpose of attending to these matters, the constitution gives to the states power to make and to enforce rules and regulations for the inspection of vessels, immigrants, and goods entering its ports, and to impose the payment of such fees as shall pay the expenses of such inspection. In order that the states may not use this privilege as a cover for raising revenue, all the surplus, if any remains after paying the costs of such inspection, must be paid to the United States, and Congress may revise and control all such rules and regulations. A fee collected from vessels for paying the cost of keeping the wharves, harbors, and channels in order is called a tonnage duty. Vessels pay this duty in proportion to their carrying capacity. States may levy a tonnage duty for the purpose named under the revisory power of Congress, but not otherwise. [Art. I., sec. 10.]

7. Fugitive Slaves. The third clause in the second section of Article IV. is not of much value now. It was inserted for the benefit of those states whose citizens held slaves. It was a prohibition upon the several states, restraining them from making any regulation, by which slaves, escaping from their masters, and fleeing into other states, should be made free. During the fierce discussions concerning the subject of slavery, in later years, several of the states did pass laws intended to obstruct the slaveholders in their efforts to recapture their fugitive slaves. However commendable those regulations were, viewed in the light of humane and moral ideas, they were plainly violations of the prohibitions of this section of the constitution. Now that slavery has been abolished in all the states, this prohibition has no farther use, and has no

farther interest to any one but to the student of history and of constitutional law.

8. Civil and Personal Rights. The fourteenth amendment prohibits the states making or enforcing any law which shall abridge the privileges of citizens of the United States, or depriving any person of life, liberty, or property, or denying to any person within its jurisdiction the equal protection of the laws. This section was adopted in 1868, and was designed to remedy a serious evil. The war of 1861–65 was over, and the slaves formerly held had been emancipated. The white people of those states, however, did not confer upon the liberated blacks any of the rights of citizenship. Under the laws of those states, as they existed before the war, the blacks were not citizens nor entitled to any rights of citizens. But this amendment confers citizenship upon all such persons, white and black alike.

The states are then forbidden by law to abridge any of the rights of citizenship, or to permit any person to be deprived of life, liberty, or property, without due process of law, or to refuse the equal protection of the law to all persons within its borders. This prohibition is very broad and very strict, more so than is generally considered. When the state authorities know that the local authorities and the courts discriminate between citizens in the enforcement of the laws, — holding foreign-born citizens by a rule, stricter than, or different from, the rule by which native-born citizens are held, or punishing blacks for acts for which its white citizens are not punished, or inflicting upon the blacks heavier penalties than they visit upon whites for identical crimes, — that state manifestly violates this article of the constitution.

9. Civil Rights. The United States courts have held that the first section of the fourteenth amendment did not confer upon the liberated blacks a right to vote, nor prohibit the states denying to them the right. To remedy the defect of the fourteenth amendment, the fifteenth amendment was adopted, providing that no state shall deny or abridge the right of its citizens to vote, on account of race, color, or previous condition of servitude.

A prohibition upon the power of a state to do any act, in the nature of things must be a prohibition upon the power of the citizens of that state to do that particular act. Whatever the state permits its citizens to do, it itself does, under the well-known rules of the common law and of reason. A state is but the organized form by which the people act; the people themselves really constitute the state; so that, whatever is done by the people in a state, must be held to be done by the state.

CHAPTER XXIV.

RELATIONS OF THE STATES.—Continued.

1. **Prohibitions upon the United States.** — In the treatment of the Bill of Rights, the meaning and extent of the prohibitions concerning *habeas corpus*, bills of attainder, and *ex post facto* laws have been shown. The right to the writ of *habeas corpus* can be suspended or denied only when in cases of rebellion or invasion the public safety requires it, and Congress is prohibited passing bills of the nature of the other two. The prohibition applies to the whole government, so far as it is applicable. [Art. I., sec. 9.]

2. In the first article of the constitution, it is provided that direct taxes shall be apportioned among the states in proportion to the number of their inhabitants, obtained as follows: Indians not taxed are not to be counted; all free persons are counted, and also three-fifths of all other persons. These "other persons" were slaves. In the constitutional convention, the delegates from the free states desired that the slaves should not be counted in making the apportionment of members of Congress and of taxes, and the delegates from the slave states wanted the slaves counted in full. The matter was compromised by counting a slave as three-fifths of a person, for both purposes. Since the liberation of the slaves, the phrase, "three-fifths of all other persons," has no force. A direct tax is a tax levied upon property or upon an individual; if levied

upon an individual, it is called a capitation tax. The "other persons" referred to in this section of the constitution were years ago made citizens, and their rights as such were fully recognized as far as changes in the fundamental law and in legislation could effect it. This clause is in effect obsolete, and possesses historical interest only. Direct taxes have been very rarely apportioned; Congress has the power to levy them, and the taxing power is the most essential and vital that any government has. The Confederation failed mainly through lack of power to collect money and pay its debts.

3. It has already been shown that Congress is forbidden to levy or collect any export duty or to give any preference to the ports of any state in its regulation of trade, domestic or foreign. [Art. I., sec. 9.]

4. No money can be drawn from the treasury of the United States except in consequence of an appropriation made by law. The money for the expenses of the government, regular and extraordinary, is appropriated by Congress in a general law. The amount to be expended by each department, and sometimes by each officer of a department, and the amounts for special objects, are named in the law. No department and no officer, not even the President, can use any money for any purpose not specified in the law; and cannot use any more money for any purpose than the law names. This appropriation of money is a legislative act, is the making of a law; it belongs to Congress as the immediate representatives of the people. This guard upon the treasury is derived from the custom of England, in which all money for the government's use must be determined by the House of Commons. [Art. I., sec. 9.]

5. No title of nobility can be granted by the United States, and we have already seen that the same prohibition rests upon the states (page 194). It is further provided that no person holding an office of profit or trust under the United States shall receive any present, emolument, office, or title of any kind from any foreign king, prince, or government. This last provision is unusual in the laws of nations. But the people of the United States are emigrants, or descendants of emigrants, from foreign nations. The history of this country shows that immigrants here retain, as a rule, a feeling of friendliness for the customs, institutions, and laws of their native land, even if they do not, as many of them do, have a friendliness for the government which they left. All these immigrants are entitled, as soon as naturalized, to vote, and to hold any office under this government but that of President and of Vice-President. At the time of the formation of the constitution there were few people in Europe friendly to the young republic, and not any nation friendly to the republican form of government, and now it does not appear that much, if any, change has taken place in the sentiment of Europe toward the United States. There was reason then, and is now, to regard the bestowment of favors upon officials of the United States, by foreign governments, with disfavor and suspicion. History shows that even native officials are frequently corrupted by foreign governments. There is reason why foreign governments might be more ready to bestow favors upon officials of the United States than upon those of other countries — for the reason that the form of government here is a protest against their form of governments, if not a menace to them.

The acceptance of presents begets friendliness toward the giver. The increase of friendliness toward foreign powers by officials of the United States would tend to weaken their attachment to the government which they were elected or appointed to serve, and thus make their official services less hearty and less valuable, if not positively harmful. Such presents may be in the nature of bribes, or of payment for treasonable acts. In any event, the constitution wisely prohibits all such acceptance of presents, unless by consent of Congress (page 116). [Art. I., sec. 9.]

6. The prohibition concerning the requirement of a religious test as a qualification for office has already been referred to. It is a general prohibition, and applies to citizens in their individual capacity, as well as to states and to the national government in their organized capacities. If a voter may make a religious opinion or religious profession of a candidate for office a test of fitness, there is no reason why the majority of the people of a state, or of the United States, may not unite to make the same test. While it may seem, sometimes, that a person's faith may have some influence in determining his character, certainly in expressing his character, such is hardly the sense of the best men and women. Character and fitness for the office should be determined by considerations other than those of religious faith or religious professions, not only by the government, but by the voters. [Art. VI.]

7. The prohibitions of the first, second, third, fourth, fifth, seventh, eighth, and ninth amendments of the constitution have already been considered. They are general in their nature; some of them applying to individuals as well as to the governments of the state and of the nation,

and most of them applying to the states as well as to the United States.

8. By the thirteenth amendment, slavery is forever prohibited within the United States. Slavery is not a natural condition of humanity, under the Anglo-Saxon and English laws, as inherited and applied by the people of the United States. As a consequence, slavery can exist only in pursuance of some law positively authorizing it. This section would prohibit the United States, and all the states and territories, passing any law permitting or sustaining slavery, and prohibit all officers of the state, and of the nation upholding slavery in any way, actively or passively. It goes further, and prohibits the individual resident sustaining any enslavement of a human being.

9. In the conduct of the war of 1861–65, the national government incurred an immense debt, — almost $2,700,000,000, — besides vast obligations for bounties and pensions. By the terms of the fourteenth amendment, section four, this debt and these obligations cannot be repudiated by the government nor by the people. It is a pledge to the world that the debt and obligations will be met promptly and cheerfully. On the other hand, the other party to the war incurred large debts and liabilities. In courts of law, the losing party usually has to pay the costs made by the successful party. After war between nations, it is not unusual for the nation beaten to pay a large sum toward the expenses of the war of the conquering nation. It would be out of the question for the victorious party or nation to pay the expenses of the losing party or nation.

The slaves were emancipated as a war-measure, to aid in suppressing the civil war. The President and Congress considered such emancipation a necessity. Such being the

case, it would not be right for the people to pay for the loss of such slaves.

10. By the fifteenth amendment, the United States is prohibited denying to any citizen the right to vote, or abridging that right, on account of the race, color, or previous condition of servitude of the voter. The scope and extent of this prohibition have been considered already, and they need not be repeated (page 196).

CHAPTER XXV.

RELATIONS OF THE STATES. — Continued.

1. Constitutional Commands. — The people, who elect the officers and who have to pay the taxes, have a right to know how their servants, the officers, spend the public money. Hence, the constitution commands that a regular statement and account of receipts and expenditures of all public money shall be published from time to time. The statement issued by the government is seldom in detail, and it thus gives but little practical information to the people. But the laws are regularly published, and they give more specific information about the government's business. In addition to this, the books of the government are necessarily public, and all proper persons have a right to examine them. Besides, the newspapers usually print information about governmental financial affairs, in considerable detail. Hence, the people generally know all that they care to know about the receipt and expenditure of the public money. This publicity is a proper and efficient safeguard against unwise expenditures, as well as against misappropriation. [Art. I., sec. 9.]

2. The courts and officers of each state are directed to give full faith and credit to all the public acts and records and judicial proceedings of every other state. The official action of public officers, and the proceedings of courts, are considered, in the state where made, to state facts as they exist, and to be regular and proper, until the contrary is

shown. This command means that they shall be so considered in other states. Thus, a judgment rendered in one state must be as valid in another state as in the state where rendered, and, in order to enforce it, suit does not have to be brought upon the original cause of action. In like manner, the acts of other public officers must be recognized. Under this provision of the constitution, Congress has enacted a law describing and prescribing the method by which these public acts, records, and proceedings of one state may be proved for use in another state. The method is very simple, by a mere copy certified to be correct by the officer having the record or proceedings in charge. [Art. IV., sec. 1.]

3. We have already considered the prohibition upon the states, wherein they are forbidden to abridge any of the privileges or immunities of citizens of the United States. A privilege is some favor granted; an immunity is some protection afforded. This amendment, in effect, supersedes, as it clearly extends and strengthens, the first clause of section two, Article IV., which provides that the citizens of each state shall be entitled to all the privileges or immunities of citizens of the several states. A citizen of a state, when he goes into another state, is entitled, under this clause, to all the civil rights of resident citizens. He may buy, sell, trade, engage in any business, and may appeal to the courts for the enforcement or protection of his rights. This clause does not guaranty the right to vote, or to hold office, as these are political rights, although the words of the clause seem to cover them. [Art. IV., sec. 1: 14th amendment, sec. 1, and 15th amendment.]

4. The nature of our form of government renders communication between the states very easy — so easy that

criminals find ready refuge in another state from the officers of the one in which the crime is committed. This would be a very serious evil if permitted. Accordingly, the constitution provides that persons charged in one state, with treason, felony, or other crime, and who shall flee into another state, shall be delivered up, on demand, to the authorities of the state from which he fled. This provision is so reasonable that all the states have laws regulating the method of such delivery, the amount of proof of the crime required to accompany the demand, and the details by which the demand is to be made and executed. A person can be tried for a crime in the state or district only in which the crime was committed, both by the common law and by the law of all the states; hence, the return of the fugitive to the place of the commission of the crime is necessary for a legal trial. [Art. IV., sec. 2.]

5. In the United States, in marked contrast with other nations, the government is a public affair, a *res publica.* In most other nations, a class, or a few classes, only, of the people participate in the government. All others are subjects of the government, but can take no part in its administration. Here, generally, male citizens twenty-one years of age may vote and hold office. Here, the government is interesting to all, whether they are voters or not. This form of government under which the citizens are voters and may be officers, in which all have an interest, in which they elect the officers of the government and are represented in the legislative department, is called a republican form. The constitution guaranties such a form of government to each state. Even if a majority of the people of a state desires to abolish the republican form

and to adopt some other, the constitution forbids such change. The nation, by its constitution, is committed to this popular and liberal form, and will not permit any state to adopt any other. [Art. IV., sec. 4.]

6. The United States is under obligations to protect each state againt invasion. The right to raise and maintain armies and navies was relinquished by each state upon its ratification of the constitution, and is denied by the constitution to the states that have been admitted since. This right was reserved to the United States. So the states having no means of protecting themselves against invasion, it is proper that the nation should assume the duty. [Art. IV., sec. 4.]

7. Sometimes disobedience to the laws is so strong as to defy all the power of the police force of a state, and even of its militia. Inasmuch as the police and the militia are composed of citizens, a widespread disobedience of law might include large proportions of those two bodies. In such case, the power of the state to enforce its laws would be very much weakened. Besides, it is usually a work of days to call the militia-men from their usual pursuits, for their organization into an armed force. In such cases, when delays are dangerous, the general government is directed to protect the state against domestic violence. In order to obtain this protection from the national government, the legislature must ask it by a formal vote. If the legislature is not in session, and if the need is too urgent to await the assemblage of that body, the governor of the state may make the demand. As the United States keeps a standing army, though small, it can generally furnish help upon short notice. [Art. IV., sec. 4.]

8. While the states were under the compact known as the Articles of Confederation, Congress had borrowed money, but it lacked the power to collect funds to repay it. It might ask for money from the states, but if they did not respond, there was no power to compel them. The states also had war debts of their own, and it was difficult to raise money. The constitution provided that those debts should be as valid under the new government as they were under the old one. As the debts of the colonies, as well as those of the confederacy, were created in the common defense, for the benefit of all the colonies, the United States included them all in one list and paid them all. [Art. VI.]

CHAPTER XXVI.

AMENDMENTS TO THE CONSTITUTION.

A REFERENCE to Article V. will show that the framers of the constitution did not suppose that their work was perfect. They realized that there would be growth in the nation, in wealth, in population, in culture and civilization, in developed industry and commerce, and in the addition of new states. They knew that their ideas of government were not perfect, that the form of government which they had established was an experiment. They therefore properly provided for such changes in the framework of the government as the wisdom which time and experience bring should demand. Additional machinery might be needed, or changes desired in the machinery which they had provided. They were in sympathy with the statement in the Declaration of Independence, that "it is the right of the people to alter or to abolish" their form of government, "and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness." There are two methods provided for making amendments to the constitution.

1. At any time Congress may propose amendments to the constitution. To do this, each house must pass a joint resolution by a vote of two-thirds of its members. The joint resolution is passed in the same manner and by

the same process and solemnity required in the passage of a bill, and it must be signed by the President also. A copy of the proposed amendment is then sent, by the Secretary of State, to the governor of each state, with the proper certificate and statement. At the first session of the legislature of each state, after its receipt by the governor, it is sent to the legislature for action. If the legislature approves the proposed amendment, it ratifies the same, in the same way that it passes a bill, by a majority vote of each house. When the legislatures of three-fourths of all the states have ratified such proposed amendment, it becomes a part of the constitution.

Instead of sending the proposed amendment to the legislature of the states for ratification, Congress may provide for a ratification by conventions of the states, elected by the people. No amendment has been ratified yet in that manner, but the constitution provides for it. In case Congress should decide upon that method of ratification, Congress can provide the machinery for such conventions, or it can delegate to the states the duty to provide for the conventions. Three-fourths of the states must ratify by convention as well as by legislature, in order to give it effect.

2. The other method for amending the constitution is by convention. By this method, the states take the initiative. When the legislatures of two-thirds of the states shall make application to Congress for a convention to revise the constitution, Congress passes a bill calling a convention for the purpose named. The constitution does not state what shall be the basis of representation in such convention, but justice would require that each state should have representation in proportion to its population, — or in proportion to its representation in the two houses

of Congress. The bill would naturally provide the time and manner of election, the time and place of meeting, and all the other details needed. Such convention would be at liberty to propose any amendments that it could agree upon, or to propose an entirely new constitution. After such convention should adjourn, the proposed amendments, or proposed new constitution, would be sent to the state legislatures, or to conventions of the states, in the manner described in the paragraph above. A ratification of such action of the convention by three-fourths of all the states is necessary to amend the constitution by that method, as well as by the other.

3. It will be seen that there is some limitation upon the power to amend. In another part of the constitution power had been denied to Congress to prohibit the slave trade prior to the year 1808. Here the same instrument prohibits any amendment that shall recall that prohibition prior to the date named. The other section referred to, which could not be changed before 1808, is the one relating to the levy of a capitation tax. Now that the date has passed, the slave trade has been abolished and prohibited by law, and practically so by later amendments to the constitution. For if slavery is forbidden in the United States, there can be no slave trade here. The change in the basis of levying a capitation tax can now be made if desirable.

4. One feature of the constitution cannot be changed without the ratification of every state in the Union, — that feature is the equality of states in the Senate of the United States. Thus the equality of the states in the Senate is left with each state, and until all agree to abolish it, it must continue.

THE CIVIL SERVICE.

In March, 1871, an act was passed by Congress enabling the President to take proper measures to ascertain the qualifications of candidates for positions in the various departments of the government service. A commission was established and rules were adopted for its regulation. Under its direction and in conformity with its rules, which must have the endorsement of the President, candidates are examined as to character, intelligence, and general ability to fill the places to which they aspire.

The law has been administered with varying success, at one time becoming a dead letter through the failure of Congress to make appropriations to carry out its provisions, although President Grant stated in an annual message that under its operation "persons of superior character and capacity" had entered the service, and "that they had developed more energy in the discharge of duty."

But the law was in advance of public opinion at that time. Later the national conventions of both political parties endorsed "civil service reform," and Congress has made appropriations to sustain the work of the commission in carrying out the purpose of the law.

These are some of the abuses which it is claimed existed previous to the passage of this enactment, and which flourish when it is in abeyance: the offices of the government are treated as the spoils of a victorious party, not as a

trust to be administered for the public good; party usefulness, rather than character, ability, and integrity, is made the test for appointment; faithful and efficient men are removed without cause to make place for party workers; devotion to a party leader is accepted in lieu of strict attention to public duties; offices are multiplied in order to make provision for political favorites; and assessments are levied upon these offices to be used for party purposes, thus making the national treasury and the taxes paid in common by all, more or less contributory to the perpetuation in power of one party and one set of men and their dependents.

This is the indictment of what is called "the spoils system." It is claimed on the other hand that this record of abuses is exaggerated, and exists, if at all, in but a limited degree; that in a government like ours, government by a party is a necessity; that it is pre-eminently for the interest of the party in power to prevent such abuses, or to reduce them to a minimum; that the weight of party responsibility which rests upon them is a sufficient and adequate motive to secure efficient, competent, and honest men for every administrative department; and that elections, frequent in occurrence, when all public questions are or may be more or less directly passed upon by the whole body of people, through their votes for candidates for office, act as a stimulus to honest administration, a safeguard against abuses, and an incentive to make only such appointments as will bear the closest scrutiny.

The aim of the civil service enactment is that appointments shall be made from *merit* only; that the way shall be open equally to all men and women having the proper qualifications; that personal merit and not political sub-

serviency shall be the test; that fitness ascertained by adequate and impartial means shall be the door through which all alike must enter; that the tenure shall be sure to proved competency; and that promotion from lower to higher grades follows by the same means.

There are about one hundred thousand offices in the federal service filled by appointment, and there is a much greater number under the state and city governments. Some of the states have a law similar in its aim to the federal law. Its friends claim that under its operation there is great gain both in efficiency and economy of administration.

In the application of this law either to national or local governments it is not intended by its promoters that its rules should apply to the heads of departments, or to any one occupying a representative position, or associated with an administration in confidential relations, but only to the great clerical and active working force of subordinate officials.

APPENDIX.

As has already been stated, the first Continental Congress, which assembled at Philadelphia September 5, 1774, adopted a Declaration of Rights. The following is the document, as finally agreed upon by the Congress, October 14, 1774.

I.

DECLARATION OF RIGHTS.

WHEREAS, since the close of the last war, the British parliament claiming a power of right, to bind the people of America by statutes in all cases whatsoever, hath, in some acts, expressly imposed taxes on them, and in others, under various pretences, but in fact for the purpose of raising a revenue, hath imposed rates and duties payable in these colonies, established a board of commissioners, with unconstitutional powers, and extended the jurisdiction of courts of admiralty, not only for collecting the said duties, but for the trial of causes merely arising within the body of a county:

And whereas, in consequence of other statutes, judges, who before held only estates at will in their offices, have been made dependent on the crown alone for their salaries, and standing armies kept in times of peace: And whereas it has lately been resolved in parliament, that by force of a statute, made in the thirty-fifth year of the reign of king Henry the eighth, colonists may be transported to England, and tried there upon accusations for treasons, and misprisions, or concealments of treasons

committed in the colonies, and by a late statute, such trials have been directed in cases therein mentioned:

And whereas, in the last session of parliament, three statutes were made; one, entitled an "Act to discontinue, in such manner and for such time as are therein mentioned, the landing and discharging, lading, or shipping of goods, wares and merchandise, at the town, and within the harbour of Boston, in the province of Massachusetts-Bay, in North-America;" another, entitled "An act for the better regulating the government of the province of Massachusetts-Bay in New-England;" and another, entitled "An act for the impartial administration of justice, in the cases of persons questioned for any act done by them in the execution of the law, or for the suppression of riots and tumults, in the province of the Massachusetts-Bay, in New-England;" and another statute was then made, "for making more effectual provision for the government of the province of Quebec, &c." All which statutes are impolitic, unjust, and cruel, as well as unconstitutional, and most dangerous and destructive of American rights:

And whereas, assemblies have been frequently dissolved, contrary to the rights of the people, when they attempted to deliberate on grievances; and their dutiful, humble, loyal, and reasonable petitions to the crown for redress, have been repeatedly treated with contempt, by his majesty's ministers of state:

The good people of the several colonies of New-Hampshire, Massachusetts-Bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, New-Castle, Kent, and Sussex, on Delaware, Maryland, Virginia, North-Carolina, and South-Carolina, justly alarmed at these arbitrary proceedings of parliament and administration, have severally elected, constituted, and appointed deputies to meet, and sit in General Congress, in the city of Philadelphia, in order to obtain such establishment, as that their religion, laws, and liberties, may not be subverted. Whereupon the deputies so

appointed being now assembled, in a full and free representation of these colonies, taking into their most serious consideration, the best means of attaining the ends aforesaid, do, in the first place, as Englishmen, their ancestors, in like cases have usually done, for affecting and vindicating their rights and liberties, DECLARE,

That the inhabitants of the English colonies in North-America, by the immutable laws of nature, the principles of the English constitution, and the several charters or compacts, have the following RIGHTS:

Resolved, *N. C. D.** 1. That they are entitled to life, liberty, and property, and they have never ceded to any sovereign power whatever, a right to dispose of either without their consent.

Resolved, *N. C. D.* 2. That our ancestors, who first settled these colonies, were at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural-born subjects, within the realm of England.

Resolved, *N. C. D.* 3. That by such emigration they by no means forfeited, surrendered, or lost any of those rights, but that they were, and their descendants now are, entitled to the exercise and enjoyment of all such of them, as their local and other circumstances enable them to exercise and enjoy.

Resolved, 4. That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council: and as the English colonists are not represented, and from their local and other circumstances, cannot properly be represented in the British parliament, they are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of taxation and internal

* An abbreviation for *nemine, contradicente;* that is, no one opposing or disagreeing.

polity, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed. But, from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British parliament, as are bona fide, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation internal or external, for raising a revenue on the subjects in America, without their consent.

Resolved, *N. C. D.* 5. That the respective colonies are entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law.

Resolved, 6. That they are entitled to the benefit of such of the English statutes, as existed at the time of their colonization; and which they have, by experience, respectively found to be applicable to their several local and other circumstances.

Resolved, *N. C. D.* 7. That these, his majesty's colonies, are likewise entitled to all the immunities and privileges granted and confirmed to them by royal charter, or secured by their several codes of provincial laws.

Resolved, *N. C. D.* 8. That they have a right peaceably to assemble, consider of their grievances, and petition the king; and that all prosecutions, prohibitory proclamations, and commitments for the same, are illegal.

Resolved, *N. C. D.* 9. That the keeping a standing army in these colonies, in times of peace, without the consent of the legislature of that colony, in which such army is kept, is against law.

Resolved, *N. C. D.* 10. It is indispensably necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature be

independent of each other; that, therefore, the exercise of legislative power in several colonies, by a council appointed, during pleasure, by the crown, is unconstitutional, dangerous and destructive to the freedom of American legislation.

All and each of which the aforesaid deputies, in behalf of themselves, and their constituents, do claim, demand, and insist on, as their indubitable rights and liberties; which cannot be legally taken from them, altered or abridged by any power whatever, without their own consent, by their representatives in their several provincial legislatures.

In the course of our inquiry, we find many infringements and violations of the foregoing rights, which from an ardent desire, that harmony and mutual intercourse of affection and interest may be restored, we pass over for the present, and proceed to state such acts and measures as have been adopted since the last war, which demonstrate a system formed to enslave America.

Resolved, N. C. D. That the following acts of parliament are infringements and violations of the rights of the colonists; and that the repeal of them is essentially necessary, in order to restore harmony between Great Britain and the American colonies, viz.

The several acts of 4 Geo. III. ch. 15, and ch. 34. — 5 Geo. III. ch. 25. — 6 Geo. III. ch. 52. — 7 Geo. III. ch. 41, and ch. 46. — 8 Geo. III. ch. 22, which impose duties for the purpose of raising a revenue in America, extend the power of the admiralty courts beyond their ancient limits, deprive the American subjects of trial by jury, authorize the judges' certificate to indemnify the prosecutor from damages, that he might otherwise be liable to, requiring oppressive security from a claimant of ships and goods seized, before he shall be allowed to defend his property, and are subversive of American rights.

Also 12 Geo. III. ch. 24, entitled "An act for the better "securing his majesty's dock-yards, magazines, ships, ammu-

" nition, and stores," which declares a new offence in America, and deprives the American subject of a constitutional trial by jury of the vicinage, by authorizing the trial of any person, charged with the committing any offence described in the said act, out of the realm, to be indicted and tried for the same in any shire or county within the realm.

Also the three acts passed in the last session of parliament, for stopping the port and blocking up the harbour of Boston, for altering the charter and government of Massachusetts-Bay, and that which is entitled " An act for the better administration " of justice," &c.

Also the act passed in the same session for establishing the Roman Catholic religion, in the province of Quebec, abolishing the equitable system of English laws, and erecting a tyranny there, to the great danger, (from so total a dissimilarity of religion, law and government) of the neighbouring British colonies, by the assistance of whose blood and treasure the said country was conquered from France.

Also the act passed in the same session, for the better providing suitable quarters for officers and soldiers in his majesty's service, in North-America.

Also, that the keeping a standing army in several of these colonies in time of peace, without the consent of the legislature of that colony, in which such army is kept, is against law.

To these grievous acts and measures, Americans cannot submit, but in hopes their fellow subjects in Great-Britain will, on a revision of them, restore us to that state, in which both countries found happiness and prosperity, we have for the present, only resolved to pursue the following peaceable measures: 1. To enter into a non-importation, non-consumption, and non-exportation agreement or association. 2. To prepare an address to the people of Great-Britain, and a memorial to the inhabitants of British-America: and 3. To prepare a loyal address to his majesty, agreeable to resolutions already entered into.

II.

COPIES of the following Declaration were, by a resolution of Congress, sent to the several assemblies, conventions, and committees, or councils of safety, and to the several commanding officers of the continental troops; and it was also proclaimed in each of the United States, and at the head of the army.

THE DECLARATION OF INDEPENDENCE, ADOPTED BY CONGRESS JULY 4, 1776.

A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN CONGRESS ASSEMBLED.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these, are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the

people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established, should not be changed for light and transient causes; and, accordingly, all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But, when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having, in direct object, the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his Governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and, when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature; a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the State remaining, in the mean time, exposed to all the danger of invasion from without, and convulsions within.

He has endeavoured to prevent the population of these States; for that purpose, obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislature.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment, for any murders which they should commit on the inhabitants of these States:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighbouring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the powers of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation, and tyranny, already begun, with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrection amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare is an undistinguished destruction, of all ages, sexes, and conditions.

In every stage of these oppressions, we have petitioned for

redress, in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them, from time to time, of attempts made by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them, by the ties of our common kindred, to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them as we hold the rest of mankind, enemies in war, in peace, friends.

We, therefore, the representatives of the UNITED STATES OF AMERICA, in GENERAL CONGRESS assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by the authority of the good people of these colonies, solemnly publish and declare, That these United Colonies are, and of right ought to be, *free and independent States;* that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain, is, and ought to be totally dissolved; and that, as FREE AND INDEPENDENT STATES, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which INDEPENDENT STATES may of right do. And, for the support of this declaration, with a firm reliance on the protection of DIVINE PROVIDENCE, we mutually pledge to each other, our lives, our fortunes, and our sacred honor.

The foregoing declaration was, by order of Congress, engrossed, and signed by the following members:

JOHN HANCOCK.

New Hampshire.

Josiah Bartlett,
William Whipple,
Matthew Thornton.

Massachusetts Bay.

Samuel Adams,
John Adams,
Robert Treat Paine,
Elbridge Gerry.

Rhode Island.

Stephen Hopkins,
William Ellery.

Pennsylvania.

Robert Morris,
Benjamin Rush,
Benjamin Franklin,
John Morton,
George Clymer,
James Smith,
George Taylor,
James Wilson,
George Ross.

Delaware.

Cæsar Rodney,
George Read,
Thomas M'Kean.

Maryland.

Samuel Chase,
William Paca,
Thomas Stone,
Charles Carroll, of Carrollton.

Connecticut.

Roger Sherman,
Samuel Huntington,
William Williams,
Oliver Wolcott.

New York.

William Floyd,
Philip Livingston,
Francis Lewis,
Lewis Morris.

New Jersey.

Richard Stockton,
John Witherspoon,
Francis Hopkinson,
John Hart,
Abraham Clark.

Virginia.

George Wythe,
Richard Henry Lee,
Thomas Jefferson,
Benjamin Harrison,
Thomas Nelson, jun.
Francis Lightfoot Lee,
Carter Braxton.

North Carolina.

William Hooper,
Joseph Hewes,
John Penn.

South Carolina.

Edward Rutledge,
Thomas Heyward, jun.
Thomas Lynch, jun.
Arthur Middleton.

Georgia.

Button Gwinnett,
Lyman Hall,
George Walton.

III.

ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES.

To all to whom these presents shall come, we the undersigned Delegates of the States affixed to our names, send greeting: — Whereas the Delegates of the United States of America in Congress assembled did on the 15th day of November in the Year of our Lord 1777, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of New-Hampshire, Massachusetts-bay, Rhode-Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia, in the words following, viz.:

Articles of Confederation and Perpetual Union between the States of New Hampshire, Massachusetts-bay, Rhode Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North-Carolina, South-Carolina, and Georgia.

Article I. The Stile of this confederacy shall be "The "United States of America."

Article II. Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the united states, in congress assembled.

Article III. The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them,

on account of religion, sovereignty, trade, or any other pretence whatever.

Article IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this Union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from Justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restriction shall not extend so far as to prevent the removal of property imported into any state, to any other state of which the Owner is an inhabitant; provided also that no imposition, duties or restrictions shall be laid by any state, on the property of the united states, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from Justice, and be found in any of the united states, he shall upon demand of the governor or executive power, of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.

Article V. For the more convenient management of the general interest of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the first Monday in November, in every year, with a power reserved to each state, to recal its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the Year.

No state shall be represented in congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the united states, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each state shall maintain its own delegates in any meeting of the states, and while they act as members of the committee of the states.

In determining questions in the united states, in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any Court, or place out of congress, and the members of congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on congress, except for treason, felony, or breach of the peace.

Article VI. No state without the Consent of the united states in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any King prince or state; nor shall any person holding any office of profit or trust under the united states, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince, or foreign state; nor shall the united states in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation or alliance whatever between them, without the consent of the united states in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the united states in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any state, except such number only, as shall be deemed necessary by the united states in congress assembled, for the defence of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only, as in the judgment of the united states, in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No state shall engage in any war without the consent of the united states in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay, till the united states in congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the united states in congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the united states in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the united states in congress assembled shall determine otherwise.

ARTICLE VII. When land-forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

ARTICLE VIII. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the united states in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any Person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the united states in congress assembled, shall from time to time, direct and appoint. The taxes for paying that proportion shall be paid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the united states in congress assembled.

ARTICLE IX. The united states in congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in cases mentioned in the 6th article — of sending and receiving ambassadors — entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever — of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united states shall be divided or appropriated — of granting let-

ters of marque and reprisal in times of peace — appointing courts for trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

The united states in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they cannot agree, congress shall name three persons out of each of the united states, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names as congress shall direct, shall in the presence of congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing;

and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, "well and truly to hear and determine the manner in question, according to the best of his judgment, without favour, affection or hope of reward:" provided also that no state shall be deprived of territory for the benefit of the united states.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the congress of the united states, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The united states in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states — fixing the standard of weights and measures throughout the United States — regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated — establishing or regulat-

ing post-offices from one state to another, throughout all the united states, and exacting such postage on the papers passing thro' the same as may be requisite to defray the expenses of the said office — appointing all officers of the land forces, in the service of the united states, excepting regimental officers — appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the united states — making rules for the government and regulation of the said land and naval forces, and directing their operations.

The united states in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated "A Committee of the States," and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction — to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of Money to be raised for the service of the united states, and to appropriate and apply the same for defraying the public expenses — to borrow money, or emit bills on the credit of the united states, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted, — to build and equip a navy — to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men and cloath, arm and equip them in a soldier like manner, at the expense of the united states; and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the united states in congress assembled: But if the united states in congress assembled shall, on consideration or circumstances judge proper that

any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise, officer, cloath, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the united states in congress assembled.

The united states in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare of the united states, or any of them, nor emit bills, nor borrow money on the credit of the united states, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the united states in congress assembled.

The Congress of the united states shall have power to adjourn to any time within the year, and to any place within the united states, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the Journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the Journal, when it is desired by any delegate; and the delegates of a state, or any

of them, at his or their request shall be furnished with a transcript of the said Journal, except such parts as are above excepted, to lay before the legislatures of the several states.

Article X. The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the united states in congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the united states assembled is requisite.

Article XI. Canada acceding to this confederation, and joining in the measures of the united states, shall be admitted into, and entitled to all the advantages of this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

Article XII. All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of congress, before the assembling of the united states, in pursuance of the present confederation, shall be deemed and considered as a charge against the united states, for payment and satisfaction whereof the said united states, and the public faith are hereby solemnly pledged.

Article XIII. Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation is submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state.

And Whereas it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. Know Ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the united states in congress assembled, on all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the state of Pennsylvania the 9th day of July in the Year of our Lord, 1778, and in the 3d year of the Independence of America.

Josiah Bartlett,	John Wentworth, jun. August 8th, 1778,	On the part and behalf of the state of New Hampshire.
John Hancock, Samuel Adams, Elbridge Gerry,	Francis Dana, James Lovell, Samuel Holton,	On the part and behalf of the state of Massachusetts-Bay.
William Ellery, Henry Marchant,	John Collins,	On the part and behalf of the state of Rhode-Island and Providence Plantations.
Roger Sherman, Samuel Huntington, Oliver Wolcott,	Titus Hosmer, Andrew Adam,	On the part and behalf of the state of Connecticut.
Jas Duane, Fras Lewis,	William Duer, Gouv^{r} Morris,	On the part and behalf of the state of New-York.
Jn^{o} Witherspoon,	Nath^{l} Scudder,	On the part and behalf of the state of New-Jersey, November 26th, 1778.
Rob^{t} Morris, Daniel Roberdeau, Jon^{a} Bayard Smith,	William Clingan, Joseph Reed, 22d July, 1778,	On the part and behalf of the state of Pennsylvania.

Tho. M'Kean, Feb. 12, 1779, John Dickinson, May 5, 1779,	Nicholas Van Dyke,	On the part and behalf of the state of Delaware.
John Hanson, March 1st, 1781,	Daniel Carroll, March 1st, 1781,	On the part and behalf of the state of Maryland.
Richard Henry Lee, John Banister, Thomas Adams,	Jn° Harvie, Francis Lightfoot Lee,	On the part and behalf of the state of Virginia.
John Penn, July 21st, 1778,	Corns Harnett, Jn° Williams,	On the part and behalf of the state of North Carolina.
Henry Laurens, William Henry Drayton, Jn° Matthews,	Richd Hutson, Thos. Heyward, jun.	On the part and behalf of the state of South Carolina.
Jn° Walton, 24th July, 1778,	Edw^d Telfair, Edw^d Langworthy,	On the part and behalf of the state of Georgia.

THE CONSTITUTION OF THE UNITED STATES OF AMERICA.

We the People of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE. I.

Section. 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section. 2. The House of Representatives shall be composed of Members chosen every second year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No person shall be a Representative who shall not have attained to the Age of twenty five years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined

[Note. — In reprinting the constitution here, the spelling, punctuation, and capitalization of the original have been preserved.]

by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons. The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

The House of Representatives shall chuse their Speaker and other officers; and shall have the sole Power of Impeachment.

Section. 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six Years; and each Senator shall have one Vote.

Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.

No person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

Judgment in Cases of Impeachment shall not extend further than to removal from Office, and Disqualification to hold and enjoy any Office of honour, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the places of chusing Senators.

The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December, unless they shall by Law appoint a different Day.

SECTION. 5. Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller

Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

Section. 6. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other Place.

No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been encreased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

Section. 7. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

Every Bill which shall have passed the House of Representa-

tives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like Manner as if he had signed it, unless the Congress by their adjournment prevent its Return, in which Case it shall not be a Law.

Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Section. 8. The Congress shall have Power

To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

To establish Post Offices and post Roads;

To promote the progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

To constitute Tribunals inferior to the supreme Court;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War, grant letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the Discipline prescribed by Congress;

To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the

Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, Dock-Yards, and other needful Buildings; — And

To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or Duty may be imposed on such Importation, not exceeding ten dollars for each Person.

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

No Bill of Attainder or ex post facto Law shall be passed.

No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

No Tax or Duty shall be laid on Articles exported from any State.

No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION. 10. No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of Delay.

ARTICLE. II.

SECTION. 1. The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows:

Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

[1]The Electors shall meet in their respective States, and vote

[1] This clause has been superseded by the 12th amendment.

by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall make a List of all the Persons voted for, and of the Number of Votes for each; which List they shall sign and certify, and transmit sealed to the Seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the Presence of the Senate and House of Representatives, open all the Certificates, and the Votes shall then be counted. The Person having the greatest Number of Votes shall be the President, if such Number be a Majority of the whole Number of Electors appointed; and if there be more than one who have such Majority and have an equal number of Votes, then the House of Representatives shall immediately chuse by Ballot one of them for President; and if no Person have a Majority, then from the five highest on the List the said House shall in like manner chuse the President. But in chusing the President, the Votes shall be taken by States, the Representation from each State having one Vote; a Quorum for this Purpose shall consist of a Member or Members from two thirds of the States, and a Majority of all the States shall be necessary to a choice. In every Case, after the Choice of the President, the Person having the greatest Number of Votes of the Electors shall be the Vice President. But if there should remain two or more who have equal Votes, the Senate shall chuse from them by Ballot the Vice President.

The Congress may determine the Time of chusing the Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States.

In Case of the Removal of the President from Office, or of his Death, Resignation, or Inability to discharge the Powers and Duties of the said office, the same shall devolve on the Vice President, and the Congress may by Law provide for the Case of Removal, Death, Resignation, or Inability, both of the President and Vice President, declaring what Officer shall then act as President, and such Officer shall act accordingly, until the Disability be removed, or a President shall be elected.

The President shall, at stated Times, receive for his services, a Compensation, which shall neither be encreased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

Before he enter on the Execution of his Office, he shall take the following Oath or Affirmation: —

"I do solemnly swear (or affirm) that I will faithfully exe-
"cute the Office of President of the United States, and will to
"the best of my Ability, preserve, protect and defend the Con-
"stitution of the United States."

Section. 2. The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States; he may require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices, and he shall have Power to grant Reprieves and Pardons for Offences against the United States, except in Cases of Impeachment.

He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States,

whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

The President shall have Power to fill up all Vacancies that may happen during the Recess of the Senate, by granting Commissions which shall expire at the End of their next Session.

SECTION. 3. He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take Care that the Laws be faithfully executed, and shall Commission all the officers of the United States.

SECTION. 4. The President, Vice President and all civil Officers of the United States, shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.

ARTICLE. III.

SECTION. 1. The Judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation which shall not be diminished during their Continuance in Office.

SECTION. 2. The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be

made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all Cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State; — between Citizens of different States, — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

Section. 3. Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

The Congress shall have Power to declare the Punishment of Treason, but no Attainder of Treason shall work Corruption of Blood, or Forfeiture except during the Life of the Person attainted.

ARTICLE. IV.

Section. 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of

every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records, and Proceedings shall be proved, and the Effect thereof.

SECTION. 2. The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

SECTION. 3. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the Jurisdiction of any other State; nor any State be formed by the Junction of two or more States, or Parts of States, without the Consent of the Legislatures of the States concerned as well as of the Congress.

The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State.

SECTION. 4. The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion, and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.

ARTICLE. V.

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitu-

tion, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year one thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE. VI.

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

ARTICLE. VII.

The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.

DONE in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independence of the United States of America the Twelfth. **In Witness** whereof We have hereunto subscribed our Names,

G° WASHINGTON —

Presidt and deputy from Virginia

NEW HAMPSHIRE.

JOHN LANGDON — NICHOLAS GILMAN

MASSACHUSETTS.

NATHANIEL GORHAM — RUFUS KING

CONNECTICUT.

WM SAML JOHNSON — ROGER SHERMAN

NEW YORK.

ALEXANDER HAMILTON

NEW JERSEY.

WIL LIVINGSTON — DAVID BREARLEY
WM PATERSON — JONA DAYTON

PENNSYLVANIA.

B FRANKLIN — THOMAS MIFFLIN
ROBT MORRIS — GEO CLYMER
THO FITZSIMONS — JARED INGERSOLL
JAMES WILSON — GOUV MORRIS

DELAWARE.

GEO READ — GUNNING BEDFORD, Jun'r
JOHN DICKINSON — RICHARD BASSETT
JACO BROOM

MARYLAND.

JAMES M'HENRY — DAN OF ST THOS JENIFER
DANL CARROLL

VIRGINIA.

John Blair	James Madison, Jr

NORTH CAROLINA.

Wm Blount	Rich'd Dobbs Spaight
Hu Williamson	

SOUTH CAROLINA.

J Rutledge	Charles Cotesworth Pinckney
Charles Pinckney	Pierce Butler

GEORGIA.

William Few	Abr Baldwin

Attest WILLIAM JACKSON, *Secretary.*

Articles in Addition to, and Amendment of, the Constitution of the United States of America,

Proposed by Congress, and ratified by the Legislatures of the several States, pursuant to the fifth article of the original Constitution.

(ARTICLE I.)

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

(ARTICLE II.)

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

(ARTICLE III.)

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

(ARTICLE IV.)

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

(ARTICLE V.)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any Criminal Case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

(ARTICLE VI.)

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have Compulsory process for obtaining Witnesses in his favour, and to have the Assistance of Counsel for his defence.

(ARTICLE VII.)

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

(ARTICLE VIII.)

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

(ARTICLE IX.)

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

(ARTICLE X.)

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

(ARTICLE XI.)

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

(ARTICLE XII.)

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President,

and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate; — The President of the Senate shall, in presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted; — The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. — The person having the greatest number of votes as Vice-President, shall be the Vice-President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

(ARTICLE XIII.)

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been

duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECT. 2. Congress shall have power to enforce this article by appropriate legislation.

(ARTICLE XIV.)

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

SECT. 2. Representatives shall be apportioned among the several States, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crimes, the basis of representation shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens, twenty-one years of age, in such State.

SECT. 3. No person shall be a senator or representative in Congress, or elector of president or vice-president, or hold any office, civil or military, under the United States or under any State, who having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of

any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each house remove such disability.

SECT. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

SECT. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

(ARTICLE XV.)

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

SECT. 2. The Congress shall have power to enforce this article by appropriate legislation.

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